

NORTH CAROLINA REGISTER

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June 1, 2009

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Contact List for Rulemaking Questions or Concerns

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

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

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NORTH CAROLINA REGISTER
Publication Schedule for January 2009 – December 2009

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
23:13	01/02/09	12/08/08	01/17/09	03/03/09	03/20/09	05/01/09	05/2010	09/29/09
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23:15	02/02/09	01/09/09	02/17/09	04/03/09	04/20/09	06/01/09	05/2010	10/30/09
23:16	02/16/09	01/26/09	03/03/09	04/17/09	04/20/09	06/01/09	05/2010	11/13/09
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23:18	03/16/09	02/23/09	03/31/09	05/15/09	05/20/09	07/01/09	05/2010	12/11/09
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24:10	11/16/09	10/23/09	12/01/09	01/15/10	01/20/10	03/01/10	05/2010	08/13/10
24:11	12/01/09	11/05/09	12/16/09	02/01/10	02/22/10	04/01/10	05/2010	08/28/10
24:12	12/15/09	11/20/09	12/30/09	02/15/10	02/22/10	04/01/10	05/2010	09/11/10

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.



AMENDED AND REISSUED
EXECUTIVE ORDER NO. 11

ESTABLISHING AND IMPLEMENTING A FLEXIBLE FURLOUGH PLAN
FOR THE 2008-09 FISCAL YEAR

WHEREAS, North Carolina's citizens and businesses are suffering from the effects of a significant national financial crisis; and

WHEREAS, this crisis has resulted in a large reduction in the revenues projected to be available to fund the State's Budget for the 2008-09 fiscal year; and

WHEREAS, in anticipation of the need to take actions to ensure that budget shortfalls would not cause expenditures to exceed revenues for the 2008-09 fiscal year, I adopted an Executive Order on my third day in office directing the Office of State Budget and Management (OSBM) to take various actions to ensure that the budget is balanced for this fiscal year; and

WHEREAS, the Department of Revenue has now calculated the revenues that will be available to the State for the remainder of this fiscal year from the taxes paid by citizens and businesses through April 15, 2009, and the Department of Revenue and OSBM have now determined that expenditures for the 2008-09 fiscal year will exceed revenues unless additional actions are taken; and

WHEREAS, it is my duty under the Constitution to ensure that the State's budget for the 2008-09 fiscal year is balanced; and

WHEREAS, the Constitution grants me the power to fulfill this duty by effecting necessary economies in state expenditures; and

WHEREAS, I must exercise this power in a manner that carefully balances the rights of citizens and businesses to government services and the interests of the State employees who provide those services; and

WHEREAS, I have determined that one of the actions I must take to balance the State's budget for this fiscal year is to implement a flexible furlough plan for all State employees; and

WHEREAS, language has been added to Section 1(b) of this Executive Order to clarify that the intent of Section 1(b) is to provide employees with 10 hours of flexible furlough leave.

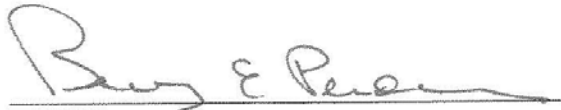
NOW, THEREFORE, pursuant to the powers conferred on me by Article III, Section 5(3) of the North Carolina Constitution, this Executive Order is hereby amended and reissued, and **IT IS HEREBY ORDERED**:

1. The Office of State Budget and Management (OSBM) shall immediately implement a Flexible Furlough Plan. Except as provided in Section 2 of this Executive Order, this Plan will apply to all persons employed in the Executive, Judicial, and Legislative Branches of State Government and all employees of the public schools, community colleges, and universities whose salaries are paid in whole or in part from moneys appropriated by the 2008 Appropriations Act. Under this plan,
 - (a) the part of the annualized base salaries of all covered employees paid from moneys appropriated by the 2008 Appropriations Act will be reduced by .5 percent ($\frac{1}{2}\%$) over the remainder of this fiscal year; and
 - (b) in return, all full-time employees whose salaries are reduced pursuant to subsection (a) shall receive 10 hours of flexible furlough leave to be taken at times to be designated by their employing agency between June 1 and December 31, 2009, and all employees employed less than full-time whose salaries are reduced pursuant to subsection (a) shall receive flexible furlough leave for a pro-rated number of hours.
2. This Plan does not apply to those State officers whose salaries are protected from reduction by Article III, Section 9 and Article IV, Section 21 of the Constitution, but I urge those officers to participate in this plan voluntarily. Further, I hereby direct OSBM to reduce my annual salary by .5 percent prior to the end of the fiscal year.
3. The State Board of Education, the State Board of Community Colleges, the Board of Governors of the University of North Carolina, and all agencies within the Executive Branch of State Government shall cooperate with OSBM in the implementation of the salary reduction part of this plan.
4. The Office of State Personnel will, as soon as practicable, develop guidelines to be used by agencies and institutions within the Executive Branch in designating the times employees will be furloughed. Likewise, the State Board of Education will adopt rules to be applied by local boards of education in designating the times public school employees will be furloughed; the State Board of Community Colleges will adopt rules to be applied by boards of trustees of community colleges in designating the times community college employees will be furloughed; and the Board of Governors of the University of North Carolina will adopt rules to be applied in designating the times EPA university employees will be furloughed. The guiding principle in adopting and implementing these rules will be avoidance of interruptions in services to citizens and businesses. I respectfully request that the Legislative and Judicial Branches of State Government also adopt rules designating the times their employees will be furloughed.

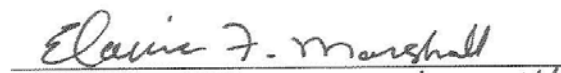
5. Finally, I urge the General Assembly immediately to enact legislation holding employees harmless for this salary reduction in the calculation of their retirement benefits, vacation, and sick leave, and in determining their eligibility for health insurance.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall *by and through*
Secretary of State *Rodney Maddox*
Chief Deputy Secretary



EXECUTIVE ORDER NO. 12

GOVERNOR'S STREETS SAFE TASK FORCE TO STOP REPEAT OFFENDERS

WHEREAS, it is in the best interests of the safety of the citizens of North Carolina to reduce the number of ex-offenders who commit crimes after their release from prison; and

WHEREAS, studies show that 36 percent of ex-offenders in North Carolina are sent back to prison for committing new crimes within three (3) years of their release and more than half of the almost 30,000 prisoners who entered North Carolina prisons in 2008 had previous involvement with the criminal justice system; and

WHEREAS, North Carolina's correction, probation, and parole system seeks to return inmates, probationers, and parolees to communities in a manner that keeps communities safe and encourages the success of the inmates, probationers, and parolees in the community; and

WHEREAS, in 2008, because the use of parole has been largely eliminated, only 16 percent of the more than 27,000 people who left North Carolina prisons received any kind of post-release supervision; and

WHEREAS, State and local agencies and community organizations seek to make North Carolina communities safer by reducing recidivism rates; and

WHEREAS, currently there is no formalized structure in North Carolina that enables these agencies and organizations to cooperate in finding solutions; and

WHEREAS, by uniting the efforts of non-profit, faith-based organizations, state and local government, and the business community, North Carolina can collaboratively work to stop ex-offenders and probationers from committing new crimes.

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

Section 1. Establishment

The Governor's Task Force on StreetSafe: Stop Repeat Offenders (hereinafter the "Task Force" or "StreetSafe Task Force") is hereby established. Task Force members shall be appointed by the Governor and shall serve at the pleasure of the Governor. The StreetSafe Task Force shall consist of at least 15 members, but no more than 35 members, including ex-officio members.

The following shall serve as ex-officio members of the Task Force:

- a. The Attorney General, who shall serve as a Co-Chair.
- b. The Secretary of the Department of Correction, who shall serve as a Co-Chair.
- c. The Secretary of the Department of Juvenile Justice Delinquency Prevention.
- d. The Secretary of the Department of Health and Human Services.
- e. The Governor's Policy Director.
- f. The Director of the Administrative Office of the Courts.
- g. The Chairman of the Employment Security Commission.
- h. The Director of the Office of Indigent Defense Services.
- i. The Executive Director of Workforce Development.
- j. The Commissioner of Motor Vehicles.
- k. The Chair of the Governor's Crime Commission.
- l. The President or their designee of the University of North Carolina System.
- m. The President or their designee of the North Carolina Community College System.
- n. The Executive Director of the North Carolina Victims Assistance Network.
- o. The Executive Director of the Z. Smith Reynolds Foundation.

The following additional members shall be appointed by the Governor from the following public and private agencies and categories of qualification and shall serve for a term of two (2) years.

- a. A correctional administrator of a medium/close custody correctional center within the North Carolina Department of Correction.
- b. A superintendent correctional administrator of a minimum custody correctional institution within the North Carolina Department of Correction.
- c. A judicial district manager from the Division of Community Corrections, North Carolina Department of Correction.
- d. A chief juvenile court counselor from the Department of Juvenile Justice and Delinquency Prevention.
- e. An attorney who is a member of the criminal defense bar.

- f. A district attorney.
- g. A district court judge.
- h. A superior court judge.
- i. An elected official representing the state's local governments.
- j. An ex-offender.
- k. A county sheriff.
- l. A police chief.
- m. A small business owner that employs ex-offenders.
- n. A large business owner that employs ex-offenders.
- o. A community representative.
- p. Two representatives of a community/faith-based organization that provides transition services to ex-offenders.
- q. A member of the Justice Systems Innovations Team from the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services within the Department of Health and Human Services.
- r. Two representatives from the faith-based community.

Section 2. Meetings

The StreetSafe Task Force shall meet quarterly or at the call of the Co-chairs. The Co-chairs shall set the agenda for the meetings.

Section 3. Duties

The StreetSafe Task Force shall have the following duties:

- a. Perform a comprehensive examination of the challenges faced by ex-offenders and probationers.
- b. Inventory current efforts of North Carolina state and local agencies and community organizations to reduce the number of repeat offenders and to safely reintegrate prisoners and probationers into the community.
- c. Create a plan that sets policy goals that will serve as a roadmap for state policy makers, agencies, and community groups to coordinate pre-release and post-release activities regarding recidivism and the reentry of ex-offenders and probationers into communities. The plan shall include efforts that emphasize job training and education, stable housing, availability of substance abuse treatment and recovery supports, and family reunification.
- d. Publish a report of the Task Force's work.

Section 4. Administration

- a. The Task Force shall establish a working group to assist the Task Force in performing its duties. The working group will have representatives from the agencies and organizations that sit on the Task Force along with representatives of any additional groups as deemed appropriate by the Task Force. The working group shall include individuals who work directly with ex-offenders. The working group will make recommendations to the Task Force.
- b. No per diem allowance shall be paid to members of the Task Force. Members of the Task Force and staff may receive necessary travel and subsistence expenses in accordance with state law and/or as the state budget office allows.

Section 5. Duration

This Executive Order shall be effective immediately and shall remain in effect until rescinded.

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



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 13

SUPPORT FOR HISTORICALLY UNDERUTILIZED BUSINESSES

WHEREAS, it is North Carolina's collective expectation that all citizens of the State will be given equal opportunities to participate in providing State government with the goods and services it requires; and

WHEREAS, it is my expectation, as Governor of the State, that this will be accomplished without regard to race, gender, or disabling condition; and

WHEREAS, when the General Assembly set the purchasing and contracting policy for the State, it encouraged State agencies to provide contracting opportunities for small and historically underutilized businesses (hereinafter "HUBs") as defined in North Carolina General Statutes § 143-48 and § 143-128.4, which includes businesses owned by minorities, women, and the disabled; and

WHEREAS, it is my desire that a coordinated effort is undertaken to eliminate any barriers which may have acted as impediments to equal opportunities for HUBs in doing business with the State; and

WHEREAS, it is also my desire that HUB owners are able to benefit from State agencies contracting with and purchasing from such firms using the resources provided by the American Recovery and Reinvestment Act.

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


1. Each executive branch agency should strive to increase the total amount of goods and services acquired by it from HUB firms, whether directly as principal contractors or indirectly as subcontractors or otherwise. It is expected that each agency will issue an aspirational goal of at least ten percent (10%), by dollar amount, of the State's purchases of goods and services that will be derived from HUB firms. It is further expected that such aspirational goal shall be adjusted per any disparity study findings as recommended by the North Carolina Department of Administration, Office of Historically Underutilized Businesses (hereinafter "HUB Office"), and the North Carolina Department of Transportation, Business Opportunity and Workforce Development Office, and Office of Civil Rights.

2. The HUB Office should assist each agency in developing a plan and should provide technical assistance to reach the recommended objectives related to the purchases of goods and services. The HUB Office may work in coordination with local, regional, and non-profit economic development organizations to engage in outreach and assistance that encourages State and local units of government to provide opportunities to historically underutilized businesses.
3. The North Carolina Office of Economic Recovery and Investment shall encourage the recipients of American Recovery and Reinvestment Act funds to provide opportunities to small and historically underutilized businesses when awarding contracts and purchasing good and services.
4. The State Purchasing Officer, the Director of the State Construction Office, the Secretary of the Department of Transportation, the Director of the State Property Office, and all State agencies shall continue to implement guidelines and procedures that ensure that the State's contracts contain specific requirements that compel contractors doing business with the State to comply with federal and state equal employment opportunity and non-discrimination requirements or their equivalents.
5. The Board of Governors of the University of North Carolina System, the State Board of Community Colleges, local boards of education, and each head of the Council of State agencies are encouraged and invited to participate in this Executive Order.

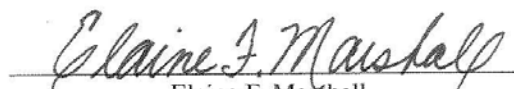
All other Executive Orders or portions of Executive Orders inconsistent with this Order are hereby rescinded. This Executive Order shall be effective immediately and shall remain in effect until rescinded.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 14

EQUAL EMPLOYMENT OPPORTUNITY

WHEREAS, the State of North Carolina is committed to providing equal employment opportunities to all employees and applicants for employment without regard to race, color, religion, creed, national origin, sex, age, or disabling condition; and

WHEREAS, the State recognizes that effective and efficient government requires the talents, skills, and abilities of all available human resources; and

WHEREAS, the State acknowledges the need to strive for diversity in all occupational categories; and

WHEREAS, this administration endorses taking positive approaches to ensure equal employment opportunity; and

WHEREAS, this administration believes that the personnel practices of state government should be nondiscriminatory and promote public confidence in the fairness and integrity of government; and

WHEREAS, fair and impartial treatment of all employees in all terms and conditions of employment is in the best interest of the State; and

WHEREAS, positive and aggressive steps by management are necessary in preventing discrimination, promoting fairness, and supporting a work environment where employees are valued for their strengths and encouraged to achieve their fullest potential; and

WHEREAS, citizens of North Carolina should contribute to the equal employment opportunity efforts of our State; and

WHEREAS, the State Personnel Commission has established policies and programs for state government to achieve these goals.

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

Section 1. Equal Employment Policies and Programs

The policies and programs that have been adopted by the State Personnel Commission and approved by the Governor represent the commitment of the State and must be strictly followed and fully complied with by every state agency, department, and university.

Section 2. Administration

Each agency head, department head, and university chancellor is responsible for the successful implementation of these policies, programs, and this Order, and shall:

- (1) Designate an official at the deputy secretary or assistant secretary level to assume responsibility for the operation and implementation of their equal opportunity plan and program;
- (2) Designate the appropriate number of full-time equal employment opportunity (EEO) officers for every 500-1,500 employees to perform the full range of EEO responsibilities to ensure the development and implementation of an effective EEO plan and program that achieve the EEO objectives. The Office of State Personnel is authorized to review and approve the appropriateness of the number of designated EEO officers, considering organizational size, structure, and geographical dispersion. Agencies, departments, or universities with 1-499 employees shall designate a part-time EEO officer who shall have direct access to the agency, department, or university head or their designee as indicated in subsection (1) above;
- (3) Ensure that the EEO officers report directly to the agency head, department head, university chancellor, or the designated deputy or assistant secretary on EEO matters;
- (4) Ensure that the agency's, department's, or university's commitment to equal employment opportunity is clearly transmitted to all employees;
- (5) Provide adequate resources and support to the EEO officers in the development and implementation of the EEO plan and program designed to achieve the equal opportunity goals;
- (6) Ensure that personnel policies are administered fairly and personnel practices are nondiscriminatory;
- (7) Ensure that each supervisory and management employee has, as a part of his or her performance management work plan, responsibility to comply with EEO laws and policies; and

- (8) Provide reasonable accommodations for otherwise qualified individuals with disabilities who can perform the essential functions of the job in question if such accommodations are made. These accommodations shall be in accordance with the Americans with Disabilities Act (ADA) Title I rules and regulations and the ADA Amendments Act.

Section 3. Office of State Personnel

The State Personnel Director shall:

- (1) Provide technical assistance, resource/support programs, monitoring, and evaluation to assist agencies, departments, and universities in achieving their equal employment opportunity goals;
- (2) Review and approve all EEO plans and updates;
- (3) Develop systems to review, analyze, and evaluate trends and make recommendations to the Governor regarding all personnel policies and practices which affect all terms, conditions, and benefits of employment;
- (4) Design and implement monitoring and reporting systems to measure the effectiveness of agency, department, and university EEO programs and personnel practices;
- (5) Provide EEO and diversity training to managers, supervisors, and employees;
- (6) Develop, with the approval of the Governor and the State Personnel Commission, state government-wide EEO policies, programs, and procedures;
- (7) Develop and promote programs and practices to encourage fair treatment of all state employees;
- (8) Compile, analyze, and submit reports to the Governor which demonstrate the State's EEO progress;
- (9) Establish procedures for determining reasonable accommodations that result in a uniform and fair process for applicants and employees with disabilities;
- (10) Develop an EEO plan for state government; and
- (11) Meet with agency heads, department heads, and university chancellors annually to discuss the progress made toward reaching program goals.

Section 4. Reports and Records

The State Personnel Director shall submit quarterly reports to the Governor on each agency's, department's, and university's progress to ensure that its workforce is representative of the citizens of North Carolina and that all terms and conditions of employment are fair and non-discriminatory.

Section 5. Citizen Contribution

The North Carolina Human Relations Commission shall provide oversight and review of state government's implementation of the EEO program and goals, thereby ensuring citizen contributions to the program. The Commission shall advise the Governor and the State Personnel Director on the progress and make recommendations for their consideration.

Section 6. Veterans' Preference

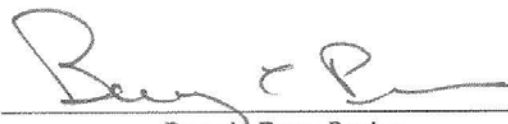
Nothing in this order shall be construed to repeal or modify any federal, state, or local laws, rules, or regulations creating special rights or preferences for veterans.

Section 8. Effect and Duration

All other Executive Orders or portions of Executive Orders inconsistent with this Order are hereby rescinded. This Order specifically rescinds Executive Order No. 5 signed on March 8, 2001. This Executive Order shall be effective immediately and shall remain in effect until rescinded.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State

NOTICE OF RESCHEDULED HEARINGS

15A NCAC 07B .0901 CAMA LAND USE PLAN AMENDMENTS
15A NCAC 07H .0205 COASTAL WETLANDS
15A NCAC 07H .0309 USE STANDARDS FOR OCEAN HAZARD AREAS: EXCEPTIONS

A Notice of Text was previously published in the 23:16 issue of the NC Register for proposed amendments to these rules. The notice included a public hearing scheduled for April 29, 2009, as well as a comment period ending May 15, 2009. This public hearing was cancelled. Due to the cancellation of this public hearing, a public hearing has been rescheduled for June 16, 2009, at 4:00 p.m. at the NC Division of Coastal Management office located at 400 Commerce Avenue, Morehead City, NC 28557. Comments on these proposed rule changes will be accepted through July 31, 2009. Written comments can be sent to the attention of Jim Gregson to either the postal address or fax number listed in this notice.

Address: Jim Gregson, Director
DENR/Division of Coastal Management
400 Commerce Avenue
Morehead City, NC 28557
Fax: (252) 247-3330

**SUMMARY OF NOTICE OF
INTENT TO REDEVELOP A BROWNFIELDS PROPERTY
Gastonia CRS Investments, LLC**

Pursuant to N.C.G.S. § 130A-310.34, Gastonia CRS Investments, LLC has filed with the North Carolina Department of Environment and Natural Resources ("DENR") a Notice of Intent to Redevelop a Brownfields Property ("Property") in Gastonia, Gaston County, North Carolina. The Property, which has served among other things as the site of a manufacturing business known as Component Remanufacturing Specialist, consists of 11.53 acres and is located at 1224 Isley Drive. Environmental contamination exists on the Property in soil and groundwater. Gastonia CRS Investments, LLC has committed itself to redevelop the property for no uses other than industrial, office, storage and, with prior written DENR approval, other commercial purposes. The Notice of Intent to Redevelop a Brownfields Property includes: (1) a proposed Brownfields Agreement between DENR and Gastonia CRS Investments, LLC, which in turn includes (a) a map showing the location of the Property, (b) a description of the contaminants involved and their concentrations in the media of the Property, (c) the above-stated description of the intended future use of the Property, and (d) proposed investigation and remediation; and (2) a proposed Notice of Brownfields Property prepared in accordance with G.S. 130A-310.35.

The full Notice of Intent to Redevelop a Brownfields Property may be reviewed at the Charlotte-Mecklenburg Public Library, 310 North Tryon Street, Charlotte, NC 28202 by contacting Joyce Reimann at that address, at 704-416-0152 or at jreimann@plcmc.org; or at NC Brownfields Program, 401 Oberlin Rd., Suite 150, Raleigh, NC 27605 by contacting Shirley Liggins at that address, at shirley.liggins@ncmail.net, or at (919) 508-8411, where DENR will provide auxiliary aids and services for persons with disabilities who wish to review the documents.

Written public comments may be submitted to DENR within 30 days after the date this Notice is published in a newspaper of general circulation serving the area in which the Property is located, or in the North Carolina Register, whichever is later. Written requests for a public meeting may be submitted to DENR within 21 days after the period for written public comments begins. Thus, if Gastonia CRS Investments, LLC, as it plans, publishes this Summary in the North Carolina Register after it publishes the Summary in a newspaper of general circulation serving the area in which the Property is located, and if it effects publication of this Summary in the North Carolina Register on the date it expects to do so, the periods for submitting written requests for a public meeting regarding this project and for submitting written public comments will commence on June 2, 2009. All such comments and requests should be addressed as follows:

Mr. Bruce Nicholson
Brownfields Program Manager
Division of Waste Management
NC Department of Environment and Natural Resources
401 Oberlin Road, Suite 150
Raleigh, North Carolina 27605

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

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

TITLE 10A– DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Services Commission intends to adopt the rule cited as 10A NCAC 70K .0318 and amend the rules cited as 10A NCAC 70E .0702-.0704, .0707, .0708, .1001, .1102, .1104, .1105, .1107, .1108, .1117; 70F .0201, .0202, .0206; 70G .0503, .0512, .0513; 70H .0405, .0407; 70I .0301, .0613, .0901, .0902, .0918; 70J .0101; 70K .0201, .0204, .0302, .0307; and 10A NCAC 71L .0102.

Proposed Effective Date: October 1, 2009

Public Hearing:

Date: June 17, 2009

Time: 10:00 a.m.

Location: Albemarle Building, Conference Room 819 E (8th Floor), 325 Salisbury Street, Raleigh, NC 27603

Reason for Proposed Action: Changes in foster home licensing rules became effective September 1, 2007. Changes in rules governing child-placing agencies, residential child-care and residential maternity care became effective October 1, 2008. Since the enactment of these rules we have discovered errors and omissions in some of the rules. These amendments and adoption will correct these errors and omissions.

Procedure by which a person can object to the agency on a proposed rule: A person may write, fax, email or call: Lisa Johnson, APA Rulemaking Coordinator, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699-2401, phone (919) 334-1003, fax (919) 334-1018, email lisa.johnson@ncmail.net.

Comments may be submitted to: Lisa Johnson, APA Rulemaking Coordinator, Division of Social Services, 2401 Mail Service Center, Raleigh, NC 27699, phone (919) 334-1003, fax (919) 334-1018, email lisa.johnson@ncmail.net

Comment period ends: July 31, 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 919-431-3000.

Fiscal Impact:

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

CHAPTER 70 – CHILDREN'S SERVICES

SUBCHAPTER 70E – LICENSING OF FAMILY FOSTER HOMES

SECTION .0700 – LICENSING REGULATIONS AND PROCEDURES

10A NCAC 70E .0702 RESPONSIBILITY

Each supervising agency providing foster care services shall ~~access~~ assess its applicants and licensees. Supervising agencies shall submit to the licensing authority information and reports that are used as the basis of either issuing or continuing to issue licenses.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .0703 NEW LICENSES

(a) The supervising agency shall submit all licensing materials to the licensing authority dated within 180 days prior to submitting an application for a new license. The supervising agency shall submit medical examinations of the members of the foster home to the licensing authority dated within 12 months prior to submitting an application for a new license. Fire inspections shall be current as determined by the local fire inspector.

(b) The supervising agency shall submit all licensing application materials required for a license to the licensing authority at one time. The licensing authority shall return incomplete licensing applications to the supervising agency.

(c) The licensing authority shall issue a new license, if approved according to the Rules in this Section, effective the date the application and all required materials are received by the licensing authority.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .0704 RELICENSURE AND RENEWAL

(a) ~~Foster homes shall be relicensed in accordance with the expiration date on the license.~~ Materials for renewing a license are due to the licensing authority prior to the date the license expires.

(b) All relicensing materials shall be completed and dated within 180 days prior to the date the supervising agency submits materials for licensure to the licensing authority. Medical examinations of the members of the foster home shall be completed and dated within 12 months prior to submitting materials for relicensure. Fire inspections shall be current as determined by the local fire inspector.

(c) All relicensing materials shall be submitted at one time to the licensing authority. Incomplete relicensure applications shall be returned to the supervising agency.

(d) If materials are submitted after the foster home license expires, a license, if approved, shall be issued effective the date the licensing materials are received by the licensing authority.

(e) When a foster home license is terminated for failure to submit relicensure materials, the home shall be relicensed if the relicensure materials are submitted to the licensing authority within one year of the date the license was terminated and all requirements are met. After one year, the supervising agency shall submit a new licensure application to the licensing authority.

(f) When a foster home license has been terminated in good standing and the foster family wishes to be licensed again, the license shall be renewed if there are no changes or the changes meet the requirements of the Rules of this Section. The period of time for this renewed license is from the date the request is received by the licensing authority to the end date of the license period in effect when the license was terminated.

(g) Unless previously licensed foster parents who have not been licensed within the last 24 consecutive months demonstrate mastery of the parenting skills listed in 10A NCAC 70E .1117(1) to the satisfaction of the supervising agency and documented to the licensing authority, the foster parents shall complete the 30 hours of pre-service training specified in 10A NCAC 70E .1117(1).

(h) Unless previously licensed therapeutic foster parents who have not been licensed within the last 24 consecutive months demonstrate mastery of the therapeutic skills listed in 10A NCAC 70E .1117(2) to the satisfaction of the supervising agency and documented to the licensing authority, the therapeutic foster parents shall complete the 10 hours of pre-service training specified in 10A .1117(2).

(i) The supervising agency shall provide documentation to the licensing authority that trainings for first aid, CPR, and universal precautions are updated.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .0707 TERMINATION

(a) Licenses terminate at the end of the two year license period unless all relicensing materials have been received by the licensing authority prior to the license expiration date.

(b) ~~If a supervising agency wishes to terminate a license before the license expiration date, the agency must notify the foster parents.~~ The licensing authority shall terminate a license before

the end of the two year license period if requested by the foster parents.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .0708 REVOCATION AND DENIAL

(a) The licensing authority may revoke or deny licenses when an agency authorized by law to investigate allegations of abuse or neglect finds the foster parent has abused or neglected a child.

(b) The licensing authority may revoke or deny a license when the foster home is not in compliance with licensing ~~standards.~~ standards in this Subchapter.

(c) The licensing authority shall base the revocation or denial on the following:

- (1) a child's circumstances;
- (2) a child's permanency plan;
- (3) the nature of the non-compliance; and
- (4) the circumstances of the placement.

(d) Foster parents shall be notified in writing of the reasons for the licensing authority's decision to revoke or deny a license. When a license has been revoked, foster parents shall submit their license to the supervising agency so it can be returned to the licensing authority.

~~(e) The licensing authority may deny licensure to an applicant who has a finding or pending investigation that may result in a finding that will place the applicant on the Health Care Personnel Registry in accordance with G.S. 131E-256. The~~ licensing authority may revoke or deny licensure to an applicant who has a finding or pending investigation that may result in a finding that will place the applicant on the following:

- (1) Health Care Personnel Registry pursuant to G.S. 131E-256; and
- (2) North Carolina Sex Offender and Public Protection Registry pursuant to Article 27A Part 2 of G.S. 14.

(f) The licensing authority may also deny licensure to an applicant under any of the following circumstances:

- (1) the applicant was the owner of a licensable facility or agency pursuant to Chapter 122C, Chapter 131D, or Article 7 of Chapter 110 of the General Statutes, and that a facility or agency had its license revoked;
- (2) the applicant is the owner of a licensable facility or agency and that facility or agency incurred a penalty for a Type A or B violation under G.S. 122C, Article 3;
- (3) the applicant is the owner of licensable facility or agency that had its license summarily suspended or downgraded to provisional status as a result of violations under G.S. 122C-24.1(a), or G.S. 131D, Article 1A, or had its license summarily suspended or denied under G.S. 110, Article 7;
- (4) the applicant was the owner of a licensable facility or agency pursuant to G.S. 122C, G.S. 131D, or G.S. 110, Article 7, who voluntarily relinquished that facility or agency's license after the initiation of revocation or summary suspension proceedings, or there is a pending

appeal of a denial, revocation, or summary suspension of that facility or agency's license; or

- (5) the applicant has as any part of its governing body or management an owner who previously held a license that was revoked or summarily suspended pursuant to G.S. 122C, G.S. 131D, or G.S. 110, Article 7.

(g) The denial of licensure pursuant to Paragraph (f) of this Rule shall be in accordance with G.S. 122C-23(e1) and G.S. 131D-10.3(h). A copy of these statutes may be obtained through the internet at <http://www.ncleg.net/Statutes/Statutes.html>.

(h) Appeal procedures specified in 10A NCAC 70L .0301 ~~shall be~~ are applicable for persons seeking an appeal to the licensing authority's decision to revoke or deny a license. If the action is reversed on appeal, the application shall be approved back to the date of the denied application if all qualifications are met.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

SECTION .1000 – CAPACITY

10A NCAC 70E .1001 FOSTER HOME

(a) ~~Effective September 1, 2007 not more than five children shall reside in any newly licensed family foster home at any time. Effective July 1, 2008 not~~ No more than five children shall reside in any family foster home at any time. These five children shall include the foster parent's own children, children placed for family foster care, licensed capacity for in-home day care children, children kept for babysitting or any other children residing in the home. Children kept for in-home day care and babysitting are considered residents of the home.

(b) ~~Effective September 1, 2007 not more than four children including not more than two foster children shall reside in a newly licensed therapeutic foster home at any time. Effective January 1, 2008 not~~ No more than four children including not more than two foster children shall reside in any therapeutic foster home at any time. The four children shall include the foster parent's own children, children placed for therapeutic foster care, children placed for family foster care or any other children living in the home. Therapeutic foster parents shall not provide in-home day care or baby sitting services in the therapeutic foster home.

(c) ~~With prior approval from the licensing authority, an exception~~ Exceptions to these the capacity standards in Paragraphs (a) and (b) of this Rule may be made:

- (1) if written documentation is submitted to the licensing authority for family foster care that siblings will be placed together and the foster home complies with Subparagraphs (3) and (4) of this Paragraph. The out-of-home family services agreement for each sibling shall specify that siblings will be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children;
- (2) if written documentation is submitted to the licensing authority for therapeutic foster care that siblings will be placed together and the foster home complies with Subparagraphs (3)

and (4) of this Paragraph. The person-centered plan or out-of-home family services agreement for each sibling shall specify that siblings shall be placed together and shall also address the foster parents' skill, stamina, and ability to care for the children;

- (3) if written documentation is submitted to the licensing authority that the foster home complies with 10A NCAC 70E .1108; and
- (4) if written documentation is submitted to the licensing authority that the foster home complies with 10A NCAC 70L .0102.

(d) Family foster homes and therapeutic foster homes shall not provide Community Alternative Programs services for Disabled Adults (CAP/DA) as defined in Section 1915(c) of the Social Security Act, unless the disabled adult was placed in the foster home as a Community Alternatives Programs for Children (CAP C) client as defined in Section 1915(c) of the Social Security Act prior to his/her 18th birthday. ~~This~~ The disabled adult shall be included in the capacity for the foster home. Family foster homes and therapeutic foster homes shall not provide supervised living services as defined by 10A NCAC 27G .5601.

(e) Members of the household 18 years old and over and not receiving foster care services are not included in capacity, but there shall be physical accommodations in the home to provide them room and board.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

SECTION .1100 – STANDARDS FOR LICENSING

10A NCAC 70E .1102 MEDICATION

Foster parents ~~shall be~~ are responsible for the following regarding medication:

- (1) General requirements:
 - (a) retain the manufacturer's label with expiration dates visible on non-prescription drug containers not dispensed by a pharmacist;
 - (b) administer prescription drugs to a child only on the written order of a person authorized by law to prescribe drugs;
 - (c) allow prescription medications to be self-administered by children only when authorized in writing by the child's licensed medical provider;
 - (d) allow non-prescription medications to be administered to a child taking prescription medications only when authorized by the child's licensed medical provider; allow non-prescription medications to be administered to a child not taking prescription medication, with the authorization of the parents, guardian, legal custodian, or licensed medical provider;

- (e) allow injections to be administered by unlicensed persons who have been trained by a registered nurse, pharmacist, or other legally qualified ~~person; person allowed by law to train unlicensed persons to administer injections;~~
- (f) ~~immediately~~ record in a Medication Administration Record (MAR) provided by the supervising agency all drugs administered to each child. The MAR shall include the following: child's name; name, strength, and quantity of the drug; instructions for administering the drug; date and time the drug is administered, discontinued, or returned to the supervising agency or the person legally authorized to remove the child from foster care; name or initials of person administering or returning the drug; child requests for changes or clarifications concerning medications; and child's refusal of any drug; and
- (g) follow-up for child requests for changes or clarifications concerning medications with an appointment or consultation with a licensed medical provider.
- (2) Medication disposal:
 - (a) return prescription medications to the supervising agency or person legally authorized to remove the child from foster care; and
 - (b) return discontinued prescription medications to a pharmacy or the supervising agency for disposal, in accordance with 10A NCAC 70G .0211(c); 10A NCAC 70G .0510(c).
- (3) Medication storage:
 - (a) store prescription and over-the-counter medications in a locked cabinet in a clean, well-lighted, well-ventilated room other than bathrooms, kitchen, or utility room between 75° F (24° C) 59° F (15° C) and 80° F (26.7° C); 86° F (30° C);
 - (b) store medications in a refrigerator, if required, between 36° F (2° C) and 46° F (8° C). If the refrigerator is used for food items, medications shall be kept in a separate, locked compartment or container within the refrigerator; and
 - (c) store prescription medications separately for each child.
- (4) Psychotropic medication review:
 - (a) arrange for any child receiving psychotropic medications to have his/her drug regimen reviewed by the child's licensed medical provider at least every six months;
 - (b) report the findings of the drug regimen review to the supervising agency; and
 - (c) document the drug review in the MAR along with any prescribed ~~changes, if applicable. changes.~~
- (5) Medication errors:
 - (a) report drug administration errors or adverse drug reactions ~~immediately~~ to a licensed medical provider or pharmacist; and
 - (b) document the drug administered and the drug reaction in the MAR.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .1104 CRITERIA FOR THE FAMILY

(a) Foster parents shall be persons whose behaviors, circumstances, and health are conducive to the safety and well-being of children. Foster parents shall also be selected on the basis of demonstrating strengths in the skill areas of Subparagraphs (1) through (12) of this Paragraph which permit them to undertake and perform the responsibilities of meeting the needs of children, in providing continuity of care, and in working with the supervising agency. Foster parents shall demonstrate skills in:

- (1) assessing individual and family strengths and needs and building on strengths and meeting needs;
- (2) using and developing effective communication;
- (3) identifying the strengths and needs of children placed in the home;
- (4) building on children's strengths and meeting the needs of children placed in the home;
- (5) developing partnerships with children placed in the home, parents or the guardians of the children placed in the home, the supervising agency and the community to develop and carry out plans for permanency;
- (6) helping children placed in the home develop skills to manage loss and skills to form attachments;
- (7) helping children placed in the home manage their behaviors;
- (8) helping children placed in the home maintain and develop relationships that will keep them connected to their pasts;
- (9) helping children placed in the home build on positive self-concept and positive family, cultural, and racial identity;
- (10) providing a safe and healthy environment for children placed in the home which keeps them free from harm;

- (11) assessing the ways in which providing family foster care or therapeutic foster care affects the family; and
 - (12) making an informed decision regarding providing family foster care or therapeutic foster care.
- (b) Age. A license may only be issued to persons 21 years of age and older.
- (c) Health. The foster family shall be in good physical and mental health as evidenced by:
- (1) a medical examination completed by a licensed medical provider on each member of the foster home within the last 12 months prior to the initial licensing application date, and biennially thereafter;
 - (2) documentation that each adult member of the household has had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical ~~provider~~. ~~provider or religious beliefs~~. The foster parents' children are required to be tested only if one or more of the parent's tests positive for TB;
 - (3) a medical history form completed on each member of the household at the time of the initial licensing application and on any person who subsequently becomes a member of the household;
 - (4) no indication of alcohol abuse, drug abuse, or illegal drug use by a member of the foster family;
 - (5) no indication that a member of the foster family is a perpetrator of domestic violence;
 - (6) no indication that a member of the foster family has abused, neglected, or exploited a disabled adult;
 - (7) no indication that a member of the foster family has been placed on the North Carolina Sex Offender and Public Protection ~~Registry~~; Registry pursuant to Article 27A Part 2 of G.S. 14;
 - ~~(8) no indication that a member of the foster family has been placed on the Nurse Aide Registry pursuant to GS 131E-255;~~
 - ~~(9)~~(8) no indication that a member of the foster family has been placed on the Health Care Personnel Registry pursuant to G.S. 131E-256; and
 - ~~(10)~~(9) no indication that a member of the foster family has been found to have abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child.
- (d) Education. Foster parent applicants shall have graduated from high school or received a GED (Graduate Equivalency ~~Diploma~~). Diploma) or shall have an ability to read and write as evidenced by their ability to administer medications as

prescribed by a licensed medical provider, maintain medication administration logs and maintain progress notes.

(e) Required Applicants. Foster parent applicants who are married are presumed to be co-parents in the same household and both shall complete all licensing requirements. ~~Effective September 1, 2008, any adult~~ Adults 21 years of age or older, living in currently licensed or newly licensed foster homes who ~~has~~ have responsibility for the care, supervision, or discipline of the foster child shall complete all licensing requirements. The supervising agency shall assess each adult's responsibility for the care, supervision, or discipline of the foster child.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .1105 CONFLICT OF INTEREST

(a) County departments of social services and private child-placing agencies shall not supervise foster homes of members of their board of directors, governance structure, social services board, and county commission.

(b) County departments of social services and private child-placing agencies shall not supervise foster homes of agency employees and relatives of agency employees. Relatives include birth and adoptive parents, blood and half blood relative and adoptive relative including brother, sister grandparent, great-grandparent, great-great grandparent, uncle, aunt, great-uncle, great-aunt, great-great uncle, great-great aunt, nephew, niece, first cousin, stepparent, stepbrother, stepsister and the spouse of each of these relatives.

(c) Private child-placing agencies shall not supervise foster homes of their agency owners.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .1107 RELATIONSHIP TO SUPERVISING AGENCY

(a) Foster parents shall agree to work with the supervising agency in the following ways:

- (1) work with the child and the child's parent(s) or guardian(s) in the placement process, reunification process, adoption process, or any change of placement process;
- (2) consult with social workers, mental health personnel, licensed medical providers, and other persons authorized by the child's parent(s), guardian(s) or custodian who are involved with the child;
- (3) maintain confidentiality regarding children and their parent(s) or guardian(s);
- (4) keep records regarding the child's illnesses, behaviors, social needs, educational needs, and family visits and contacts; and
- (5) report ~~immediately~~ to the supervising agency any changes as required by 10A NCAC 70E .0902.

(b) In addition to Subparagraphs (a)(1) through (5) of this Rule, foster parents who provide therapeutic foster care services shall:

- (1) be trained as set out in 10A NCAC 70E .1117; and

- (2) allow weekly supervision and support from a qualified professional as defined in 10A NCAC 27G .0104 and .0203.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .1108 FIRE AND BUILDING SAFETY

(a) Each foster home shall be in compliance with all applicable portions of the NC ~~Building Residential~~ Code in effect at the time the foster home was constructed or last renovated. ~~The NC Building Code is hereby incorporated by reference including subsequent amendments and additions. The NC Building Code may be purchased at a cost of \$106.25 at the following web site (www.ncdoi.com — click on Code Services, click on Code Book Sales). Information regarding the purchase of all applicable volumes of The North Carolina State Residential Code and referenced standards and codes, can be accessed by reviewing the following web site: (www.ncdoi.com — click on Code Services, click on Code Book Sales) or calling the Code Section within the Department of Insurance at 919-661-5880.~~

(b) All homes shall be protected from all fire hazards including the following:

- (1) all hallways, doorways, entrances, ramps, steps, and corridors shall be kept clear and unobstructed at all times;
- (2) an evacuation plan shall be developed, and all persons in the home shall be knowledgeable of the plan;
- (3) a mounted "ABC" fire extinguisher with a rating not less than 1-A shall be installed and readily available in the residence;
- ~~(3)(4)~~ all homes shall have one smoke detector outside each sleeping area that is within 10 feet of each bedroom door, with at least one smoke detector on each level; and at least one five-pound, ABC type fire extinguisher or CO² type fire extinguisher located in the kitchen and another ABC type fire extinguisher or CO² type fire extinguisher centrally located; homes built prior to July 1975 shall have a battery or electric smoke alarm installed outside every sleeping area. Homes built between July 1975 and June 30, 1999, shall have electric smoke alarms placed outside sleeping areas as required by the N.C. Residential Code in effect at construction time. Homes built after June 30, 1999 shall have smoke alarms in every sleeping room, outside bedrooms and other areas, interconnected as required in the N.C. Residential Code;
- (5) a Carbon Monoxide (CO) detector shall be installed in homes that use fuel oil products, coal, wood or gas to heat, cool, cook, operate a hot water heater or gas logs;
- ~~(4)(6)~~ all homes shall have a telephone service; that functions without use of electric power;
- ~~(5)(7)~~ no egress door shall have a double keyed dead bolt; and

~~(6)(8) the occupant utilizes Underwriters Laboratory (UL) listed extension cords. These cords shall not be substituted for permanent wiring and must be used only for portable appliances. extension cords shall not be used as a substitute for permanent wiring. Extension cords shall be used only for portable appliances and shall be listed by Underwriters Laboratory (UL).~~

(c) Before a home is licensed or relicensed, it shall be inspected and receive a passing rating on the fire and building safety inspection report completed by the local jurisdiction. Before a home is licensed, it shall be inspected and receive a passing rating on the fire and building safety inspection report completed by the local fire inspector. Before a home is relicensed, it shall have a current fire and building safety inspection report with a passing rating completed by the local fire inspector.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 143B-153.

10A NCAC 70E .1117 TRAINING REQUIREMENTS

Each supervising agency shall provide, or cause to be provided, preservice and in-service training for all prospective and licensed foster parents as follows:

- (1) Prior to ~~licensing~~ licensure or within six months from the date a provisional license is issued, each applicant shall successfully complete 30 hours of preservice training. Preservice training shall include the following components:
 - (a) General Orientation to Foster Care and Adoption Process;
 - (b) Communication Skills;
 - (c) Understanding the Dynamics of Foster Care and Adoption Process;
 - (d) Separation and Loss;
 - (e) Attachment and Trust;
 - (f) Child and Adolescent Development;
 - (g) Behavior Management;
 - (h) Working with Birth Families and Maintaining Connections;
 - (i) Lifebook Preparation;
 - (j) Planned Moves and the Impact of Disruptions;
 - (k) The Impact of Placement on Foster and Adoptive Families;
 - (l) Teamwork to Achieve Permanence;
 - (m) Cultural Sensitivity;
 - (n) Confidentiality; and
 - (o) Health and Safety.
- (2) ~~Effective January 1, 2008, Prior to licensure or within six months from the date a provisional license is issued, therapeutic foster parent applicants shall also receive prior to licensure at least ten additional hours of preservice training in behavioral mental health treatment services including the following:~~
 - (a) role of the therapeutic foster parent;
 - (b) safety planning; and

- (c) managing behaviors.
- (3) During the ~~first initial two year~~ years of licensure, each therapeutic foster parent shall receive additional training in the following areas:
 - (a) development of the person-centered plan;
 - (b) dynamics of emotionally disturbed and substance abusing youth and families;
 - (c) symptoms of substance abuse;
 - (d) needs of emotionally disturbed and substance abusing youth and families; and
 - (e) crisis intervention.
- (4) Training in first-aid, cardiopulmonary resuscitation (CPR) and universal precautions such as those provided by the American Red Cross, the American Heart Association, or equivalent organizations shall be provided to foster parents before a foster child is placed with the foster family. Training in CPR shall be appropriate for the ages of children in care. First-aid, CPR, and universal precautions training shall be updated as required by the American Red Cross, the American Heart Association, or equivalent organizations. The supervising agency shall ensure that family foster parents and therapeutic foster parents are trained in medication administration before a child is placed with the foster family.
- (5) Child-specific training shall be provided to the foster parents as required in the out-of-home family services agreement or person-centered plan as a condition of the child being placed in the foster home. When the child or adolescent requires treatment for abuse – reactive, sexually reactive and sexual offender behaviors, specific treatment shall be identified in his/her person-centered plan. Training of therapeutic foster parents is required in all aspects of reactive and offender specific sexual treatment and shall be made available by a provider who meets the requirements specified for supervised by a qualified professional with sex offender-specific treatment expertise. as defined in 10A NCAC 27G .0104. When the child or adolescent requires treatment for substance abuse, specific treatment shall be identified in his/her person-centered plan. Training and supervision of therapeutic foster parents are required in all aspects of substance abuse and shall be made available by a provider who meets the requirements specified for a qualified substance abuse prevention professional or associate professional for substance abuse. as defined in 10A NCAC 27G .0104. ~~Qualified substance abuse~~

~~prevention professional (QSAPP) means, within the Mental Health, Developmental Disabilities, Substance Abuse system of care a graduate of a college or university with a Masters degree in a human service field and has one year of full-time, post-graduate degree accumulated supervised experience in substance abuse prevention; or a graduate of a college or university with a bachelor's degree in a human service field and has two years of full time, post bachelor's degree accumulated supervised experience in substance abuse prevention; or a graduate of a college or university with a bachelor's degree in a field other than human services and has four years of full time, post bachelor's degree accumulated supervised experience in substance abuse prevention; or a substance abuse prevention professional who is certified as a Certified Substance Abuse Prevention Consultant (CSAPC) by the North Carolina Substance Abuse Professional Certification Board. The supervising agency shall provide or make this professional expertise available to the therapeutic foster parents. This training shall count towards the training requirements of Item (6) of this Rule.~~

- (6) Prior to licensure renewal, each foster parent shall successfully complete at least twenty hours of inservice training. This training may be child-specific or may concern issues relevant to the general population of children in foster care. In order to meet this requirement:
 - (a) each supervising agency shall provide, or cause to be provided, at least 10 hours of in-service training for foster parents annually;
 - (b) ~~such~~ the training shall include subjects that would enhance the skills of foster parents and promote stability for children;
 - (c) a foster parent may complete ~~relevant~~ training provided by a community college, a licensed supervising agency, or other departments of State or county governments; and, upon approval by the supervising agency, such training shall count towards meeting the requirements specified in this Item; and
 - (d) each supervising agency shall document in the foster parent record the type of activity the foster parent has completed pursuant to this Item.
- (7) A foster family caring for a child with HIV (human immunodeficiency virus) or AIDS (acquired immunodeficiency syndrome) shall complete six hours of ~~advanced medical~~

training on issues relevant to HIV or AIDS annually. ~~This training shall consist of issues relevant to HIV or AIDS.~~ This training may count towards the training requirements Item (6) of this Rule.

- (8) Training requirements for physical restraint holds pursuant to 10A NCAC 70E .1103.

Authority G.S. 131D-10.1; 131D-10.3; 131D-10.5; 131D-10.6; 131D-10.6A.

SUBCHAPTER 70F – CHILD PLACING AGENCIES AND RESIDENTIAL MATERNITY HOMES

SECTION .0200 – ORGANIZATION AND ADMINISTRATION

10A NCAC 70F .0201 GOVERNANCE

(a) A private child-placing agency and residential maternity home shall have a governing body that exercises authority and has responsibility for its operation, policies, and practices. The private child-placing agency and maternity home shall notify the licensing authority of the type and structure of the governing body.

(b) A private child-placing agency and a residential maternity home that operates under articles of incorporation shall file the articles of incorporation with the Department of the Secretary of State (<http://www.secretary.state.nc.us>). ~~The articles shall have a statement of purpose that describes the geographic area to be served, kinds of clients to be served, and the range of services to be provided.~~ An official copy of the articles of incorporation shall be submitted to the licensing authority.

(c) In the case of non-profit or for-profit corporations, the governing body shall:

- (1) be composed of no fewer than six members to include men and women;
- (2) provide for a system of rotation for board members and limitation to the number of consecutive terms a member may serve;
- (3) establish standing committees;
- (4) provide orientation for new members; and
- (5) meet at least four times annually with a quorum present.

(d) An agency shall submit to the licensing authority a list of members of the governing body. This list shall indicate the name, address, and term of membership of each member and shall identify each officer and the term of that office.

(e) A governmental agency shall identify the statutory basis for its authority to operate a child-placing agency or a residential maternity home.

(f) The agency shall permanently maintain meeting minutes of the governing body and committees.

Authority G.S. 131D-1; 131D-10.5; 143B-153.

10A NCAC 70F .0202 RESPONSIBILITIES OF THE GOVERNING BODY

(a) The governing body shall provide leadership for the agency and shall approve the agency's policies and programs.

(b) The governing body shall employ an executive director who is located in the administrative office within the geographical boundaries of North Carolina and delegate responsibility to that person for the administration and operation of the agency, including the employment and discharge of all agency staff.

(c) The governing body shall require the executive director provide a signed statement that the executive director has no criminal, social or medical history that would adversely affect his or her capacity to work with children and adults. The governing body shall ensure that the criminal histories of an executive director are checked prior to employment and based on the criminal history, a determination is made concerning the individual's fitness for employment. The governing body shall ensure that searches of the North Carolina Sex Offender and Public Protection Registry and the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256) are completed prior to employment, and based on these searches, a determination is made concerning the individual's fitness for employment. The governing body shall submit authorization to the licensing authority to search the Responsible Individuals List as defined in 10A NCAC 70A .0102 to determine if the executive director has had child protective services involvement resulting in a substantiation of child abuse or serious neglect, and based on this search, a determination is made concerning the individual's fitness for employment. The governing body shall require that the executive director provide a signed statement prior to employment that he or she has not abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services involvement that resulted in the removal of a child. The governing body shall require that the executive director provide a signed statement that he or she has not abused, neglected or exploited a disabled adult and that he or she has not been a domestic violence perpetrator. Agencies or applicants that do not have a governing body shall provide this information directly to the licensing authority.

(d) The governing body shall annually evaluate the executive director's performance except a sole proprietor or partner is exempt from this Rule if he or she serves as executive director.

(e) The governing body shall approve the annual budget of anticipated income and expenditures necessary to provide the services described in its statement of purpose. Child-placing agencies and residential maternity homes receiving foster care maintenance payments of state funds or state maternity home funds shall submit an annual audit of their financial statements to the Department of Health and Human Services, Controller's Office in compliance with 10A NCAC 70D .0105(a)(5).

(f) The governing body shall annually evaluate the agency's services. This evaluation shall include the agency's interaction with other community agencies to serve its clients.

(g) The governing body shall establish in writing the policies and procedures for control and access to and receipt, use, or release of information about its clients.

(h) The governing body of child-placing agencies providing foster care services shall develop a written disaster plan that is provided to agency personnel and foster parents. The disaster plan shall be prepared and updated at least annually. The governing body of residential maternity homes shall comply with 10A NCAC 70K .0315(g).

(i) The governing body, in the event of the closing of the agency, shall develop a plan for the retention and storage of client records. The specifics of this plan shall be submitted to the licensing authority before the actual closing of the agency.

Authority G.S. 131D-1; 131D-10.5; 131D-10.6; 143B-153; Social Security Act Section 471(a)(20).

10A NCAC 70F .0206 PERSONNEL POLICIES

(a) The agency shall have written policies for all employees (full-time, part-time and contracted) which include the following:

- (1) written job descriptions and titles for each position defining the qualifications, duties, and lines of authority;
- (2) salary scales;
- (3) a description of employee benefits;
- (4) opportunities for professional growth through supervision, orientation, in-service training, and staff development;
- (5) procedures for annual evaluation of the work and performance of each staff member which includes provision for employee participation in the evaluation process;
- (6) a description of the termination procedures established for resignation, retirement, or discharge; and
- (7) a written grievance procedure for employees.

(b) The agency shall have a personnel file for each employee (full-time, part-time and, contracted) which includes the following:

- (1) the application for employment, including record of work experience;
- (2) documentation of at least three references;
- (3) applicable professional credentials or certifications (prior to employment certified college transcripts shall be obtained for positions requiring college degrees);
- (4) signed statement indicating the employee's understanding of and willingness to comply with confidentiality requirements;
- (5) signed statement that the employee has no criminal, social, or medical history which would adversely affect the employee's capacity to work with children and adults;
- (6) criminal record checks certified by the Clerk of Superior Court;
- (7) results of the search of the North Carolina Sex Offender and Public Protection Registry;
- (8) results of the search of the North Carolina Health Care Personnel Registry (pursuant to G.S. 131E-256);
- (9) results of the Responsible Individuals List as defined in 10A NCAC 70A .0102 that indicate the employee has not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;

(10) signed statement that the applicant has not abused or neglected a child, has been a respondent in a juvenile court proceeding that resulted in the removal of a child, or had child protective services involvement that resulted in the removal of a child;

(11) signed statement that the applicant has not abused, neglected, or exploited a disabled adult;

(12) signed statement that the applicant has not been a domestic violence perpetrator;

(13) log of training;

(14) written approval letter from executive director or his or her designee authorizing staff to administer physical restraint holds, if applicable;

~~(14)~~(15) annual performance evaluations;

~~(15)~~(16) documentation of disciplinary actions;

~~(16)~~(17) documentation of grievances files;

~~(17)~~(18) employee's starting and termination dates; and

~~(18)~~(19) reason for termination.

(c) The agency shall have written procedures which safeguard the confidentiality of the personnel records.

Authority G.S. 131D-1; 131D-10.5; 131D-10.6; 143B-153.

**SUBCHAPTER 70G – CHILD PLACING AGENCIES:
FOSTER CARE**

SECTION .0500 - MINIMUM LICENSING STANDARDS

10A NCAC 70G .0503 PLACEMENT SERVICES

(a) The agency shall assist the parents or guardian to assume or resume their parental roles and responsibilities as specified in the out-of-home family services agreement or person-centered plan.

(b) The agency shall assist the parents or guardian to gain access to the services necessary to accomplish the goals and objectives specified in the out-of-home family services agreement or person-centered plan.

(c) The agency shall encourage contacts between parents or guardian and children after placement, in accordance with the visitation and contact plan.

(d) The agency shall have a signed agreement with the parents, guardian or legal custodian of the child in care which includes the expectations and responsibilities of the agency and the parents, guardian or legal custodian for carrying out the steps to meet the out-of-home family services agreement or person-centered plan goals, the financial arrangements for the child in care, and visitation and contact plans.

(e) The agency shall select the most appropriate form of care for the child consistent with the needs of the child, parents and guardian for family foster care or therapeutic foster care. The agency shall provide for any services the child may need and shall make every effort when placing the child to select the least restrictive and most appropriate setting closest to the child's home.

(f) The agency shall document any need to place a child in a family foster home or therapeutic foster home that is beyond a

radius of 150 miles from the child placing agency and the child's parents or guardian.

(g) The agency, when selecting care, shall take into consideration a child's racial, cultural, ethnic, and religious heritage and preserve them to the extent possible without jeopardizing the child's right to care.

(h) The agency shall involve the parents or guardian in the selection of the placement.

(i) The family foster home or the therapeutic foster home shall be licensed by the Division of Social Services.

(j) The agency social worker for the child shall become acquainted with the child and family prior to placement, except when a child is placed on an emergency basis or in the case of an infant.

(k) The agency social worker shall help the child understand the reasons for placement and prepare him or her for the new environment. The social worker shall, except when placing under emergency conditions, arrange at least one preplacement visit for the child and shall be available to the child, the parents or guardian, and foster parents for supportive services.

(l) No child shall be accepted into a foster home without having had a current medical examination by a licensed medical provider (physician, physician's assistant or nurse practitioner). Medical examinations completed by a licensed medical provider within 12 months prior to the admission of the child in foster care are considered current. If a child has not had a medical examination by a licensed medical provider within 12 months prior to admission, the agency shall arrange a medical examination for the child within two weeks after admission or sooner if indicated by the child's health condition. The medical examination report shall include a signed statement by a licensed medical provider specifying the child's medical condition and medications prescribed and indicating the presence of any communicable disease which may pose a risk of transmission in the foster home. If a child is in the custody of a county department of social services, is already scheduled to have and is having a medical examination completed annually, and is entering a foster home, the schedule of annual medical examinations do not have to be changed. A copy of the most recent medical examination report shall be obtained from the responsible county department of social services by the agency.

(m) The agency shall obtain and record a developmental history for each child.

(n) The agency shall supervise the care of the child and shall coordinate the planning and services for the child and family as stated in the out-of-home family services agreement or person-centered plan.

(o) Children in family foster homes and therapeutic foster homes shall have a monthly face-to-face contact by the social worker or case manager or more if specified in the out-of-home family services agreement or person-centered plan. The parents or guardian of children in family foster care and therapeutic foster care shall have a monthly face-to-face contact by the social worker or case manager unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face contacts.

(p) The agency social worker or case manager shall meet with the children and the parents, guardian or legal custodian, either separately or together based on the out-of-home family services

agreement or person-centered plan to assess and work on the following:

- (1) progress in resolving problems which precipitated placement;
- (2) parent and child relationship difficulties;
- (3) adjustment to separation;
- (4) adjustment to placement; and
- (5) achievement of out-of-home family services agreement goals or person-centered plan goals.

(q) The agency shall refer the child's parents or guardian to other agencies in the community if they require services the agency does not provide and it is specified in the out-of-home family services agreement or person-centered plan. The agency shall receive reports from the agency providing services regarding the parents' or guardian's progress or lack of progress.

(r) The agency shall make provisions for social work, mental health and health care services as stated in the out-of-home family services agreement or person-centered plan.

(s) The agency shall give foster parents assistance, training, consultation, and emotional support in caring for children and in resolving problems related to their role as foster parents. ~~Family foster~~ Foster ~~care~~ parents shall have one face-to-face contact per month by the social worker or case manager unless the out-of-home family services agreement or person-centered plan indicates a different schedule of face-to-face contacts for each ~~family foster care~~ child placed in the home. Phone support and 24-hour on-call support shall be provided to ~~family foster care parents and therapeutic foster care~~ therapeutic foster care parents. Therapeutic foster care parents shall have at least 60 minutes of supervision by a qualified professional as defined in 10A NCAC 27G .0104 on a weekly basis for each therapeutic foster child placed in the foster home. Therapeutic Foster Parents providing treatment to children/youth with substance abuse treatment needs shall receive supervision from a qualified substance abuse prevention professional as defined in 10A NCAC 27G .0104. The agency shall provide each foster parent with a Foster Parent Handbook that outlines agency procedures, requirements and expectations.

Authority G.S. 131D-10.5; 143B-153.

10A NCAC 70G .0512 PHYSICAL RESTRAINT HOLDS, BEHAVIOR MANAGEMENT AND DISCIPLINE

(a) Agencies using physical restraint holds shall, within 72 hours of an incident involving a physical restraint, review the incident report to ensure that correct steps were followed and forward the report to the parents, guardian or legal custodian and the licensing authority on a report form developed by the licensing authority.

(b) Agencies shall submit a report to the licensing authority by the 10th day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted.

(c) Agencies shall maintain reports of physical restraint holds in a manner consistent with the agency's ~~risk~~ risk management policies (clinical decisions and activities undertaken to identify, evaluate and reduce the risk of injury to clients, staff and visitors and reduce the risk of loss to the agency) and make them available to the licensing authority upon request.

(d) Foster parents and agency staff who utilize physical restraint holds shall receive at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical restraint holds, monitoring of vital indicators, and debriefing ~~children and children~~. Foster parents and agency staff involved in physical restraint holds. Foster parents and agency staff authorized to use physical restraint holds shall annually complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior. Foster parents and agency staff shall be trained by instructors who have met the following qualifications and training requirements:

- (1) trainers shall demonstrate competence by scoring ~~100%~~ 100 percent on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions;
- (2) trainers shall demonstrate competence by scoring ~~100%~~ 100 percent on testing in a training program teaching the use of physical restraint; trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program;
- (3) the training shall be competency-based, and shall include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course;
- (4) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and shall ~~include, but not be limited to,~~ include presentation of understanding the adult learner, methods of teaching content of the course, evaluation of trainee performance and documentation procedures;
- (5) trainers shall be retrained at least annually and demonstrate competence in the use of physical restraint;
- (6) trainers shall be currently trained in CPR;
- (7) trainers shall have coached experience in teaching the use of restrictive interventions at least two times with a positive review by the ~~coach,~~ coach;
- (8) trainers shall teach a program on the use of physical restraints at least once annually; and
- (9) trainers shall complete a refresher instructor training at least every two years.

(e) Foster parents and agency staff shall only use physical restraint holds approved by the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3022 Mail Service Center, Raleigh, NC 27699-3022. Requests for approval shall be submitted to the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3022 Mail Service Center, Raleigh, NC 27699-3022.

~~(e)(f)~~ Foster parents and agency staff shall receive written approval from the executive director or his or her designee of the supervising agency to administer physical restraint holds. A copy of this letter shall be placed in the foster home ~~record-~~ record of foster parents and the personnel file of agency staff members.

~~(f)(g)~~ Agencies shall complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. The review of the policies and techniques shall be documented and submitted to the licensing authority at the time of relicensure as part of the reapplication process.

Authority G.S. 131D-10.5; 143B-153.

10A NCAC 70G .0513 CRITICAL INCIDENTS

(a) The agency shall have written policies and procedures for reporting critical incidents.

(b) The agency shall follow policies and procedures for handling any suspected incidents of abuse or neglect of a child involving staff, subcontractors, volunteers, interns or foster parents in a foster home supervised by the agency. The policies and procedures shall include:

- (1) a provision for reporting any suspicion of abuse or neglect to the appropriate county department of social services for investigation;
- (2) a provision for recording any suspected incident of abuse or neglect and for reporting it to the executive director or to the governing body;
- (3) a provision for notifying parents, guardian or legal custodian;
- (4) a provision for preventing a recurrence of the alleged incident pending the investigative assessment;
- (5) a policy concerning personnel action to be taken when the incident involves a staff member, subcontractor, volunteer or intern;
- (6) a policy concerning the action to be taken when the incident involves a foster parent;
- (7) a provision for submitting a critical incident report to the licensing authority within 72 hours of the incident being accepted for an investigative assessment by a county department of social services; and
- (8) a provision for submitting written notification to the licensing authority within 72 hours of the case decision by the county department of social services conducting the investigative assessment.

(c) Critical incident reports shall be submitted to the licensing authority by the executive director or his or her designee on a form provided by the licensing authority within 72 hours of the critical incident. Critical incidents involving a child in placement in a foster home supervised by the agency include the following:

- (1) a death of a child;
- (2) reports of abuse and neglect;
- (3) admission to a hospital;

- (4) suicide attempt;
- (5) runaway lasting more than 24 hours; and
- (6) arrest for violations of state, municipal, county or federal laws; ~~and laws.~~
- ~~(7) reports of physical restraint holds.~~
- (d) Documentation of critical incidents shall include:
 - (1) name of child or children involved;
 - (2) date and time of incident;
 - (3) brief description of incident;
 - (4) action taken by staff;
 - (5) need for medical attention;
 - (6) name of staff involved and person completing the report;
 - (7) name of child's parent, guardian or legal custodian notified and the date and time of notification; and
 - (8) approval of supervisory or administrative staff reviewing the report.

(e) When there is a death of a child in placement in a foster home supervised by the agency, the executive director or his or her designee shall notify the parent, guardian or legal custodian and the licensing authority within 72 hours of the death of the child.

(f) Critical incident reports shall be maintained in manner consistent with the agency's risk management policies that include clinical decisions and activities undertaken to identify, evaluate and reduce the risk of injury to clients, staff and visitors and reduce the risk of loss to the agency and shall be made available to the licensing authority upon request.

Authority G.S. 131D-1; 131D-10.5.

SUBCHAPTER 70H - CHILD-PLACING AGENCIES: ADOPTION

SECTION .0400 – MINIMUM LICENSING STANDARDS

10A NCAC 70H .0405 PREPLACEMENT ASSESSMENT

(a) The agency shall complete a preplacement assessment within 90 days after the application for adoption has been approved and the request for the assessment has been received. In a case involving a single adoptive applicant, there shall be two separate face-to-face interviews occurring on two different dates. In a case involving joint applicants, there shall be a separate face-to-face interview with each applicant and an additional two face-to-face interviews with both applicants. At least one interview shall be conducted in the applicants' home. There shall be separate face-to-face interviews with each member of the household ten years of age or older. The assessment process shall be a joint effort of the adoption agency and the applicants to determine the kind of child the applicants can best parent. Any assessment that was completed 18 months or more before placement of a child occurs shall be updated to include current information about the family. Any agency updating a preplacement assessment not originally completed by that agency assumes responsibility for the entire assessment, and the new assessment shall reflect that it is the responsibility of the agency conducting the update. Physical examinations of family members shall be current to within 18 months of the assessment.

- (b) The agency shall assess the following areas and shall record the information in the adoptive applicants' record:
- (1) the applicants' reasons for wanting to adopt;
 - (2) the strengths and needs of each member of the household;
 - (3) the attitudes and feelings of the family, extended family, and other individuals involved with the family toward accepting adoptive children, and parenting children not born to them;
 - (4) the attitudes of the applicants toward the birth parents and in regard to the reasons the child is in need of adoption;
 - (5) the applicants' attitudes toward child behavior and discipline;
 - (6) the applicants' plan for discussing adoption with the child;
 - (7) the emotional stability and maturity of applicants;
 - (8) the applicants' ability to cope with problems, stress, frustrations, crises, and loss;
 - (9) the applicants' ability to give and receive affection;
 - (10) the applicants' child-caring skills and willingness to acquire additional skills needed for the child's development;
 - (11) the applicants' ability to provide for the child's physical and emotional needs;
 - (12) whether the applicant has ever been convicted of a crime other than a minor traffic violation;
 - (13) the strengths and needs of birth children or previously adopted children,
 - (14) the applicant's physical and mental health, including any addiction to alcohol or drugs;
 - (15) current financial information provided by the applicant, including property and income;
 - (16) the applicants' personal character references;
 - (17) the applicant's religious orientation, if any;
 - (18) the location and physical environment of the home;
 - (19) the plan for child care if parents work;
 - (20) recommendations for adoption in regard to the number, age, sex, characteristics, and special needs of children who could be best served by the family;
 - (21) any previous request for an assessment or involvement in an adoptive placement and the outcome of the assessment or placement;
 - (22) whether the individual has ever been a respondent in a domestic violence proceeding or a proceeding concerning a minor who was allegedly abused, neglected, dependent, undisciplined or delinquent, and the outcome of the proceeding or whether the individual has been found to have abused or neglected a child or has been a respondent in a juvenile court proceeding that resulted in the removal of a child or has had child protective services

involvement that resulted in the removal of a child;

- (23) documentation of the results of the search of the Responsible Individual's List as defined in 10A NCAC 70A .0102 for all adult members of the household that indicates they have not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- ~~(23)~~(24) whether the applicant has located a parent interested in placing a child for adoption with the applicant, and a brief, non identifying description of the parent and the child;
- ~~(24)~~(25) the applicants' age, date of birth, nationality, race or ethnicity;
- ~~(25)~~(26) the applicant's marital and family status and history, including the presence of any children born to or adopted by the applicant, and any other children in the household;
- ~~(26)~~(27) the applicant's educational and employment history and any special skills; and
- ~~(27)~~(28) any additional fact or circumstance that may be relevant to a determination of the applicant's suitability to be an adoptive parent, including the quality of the home environment and the level of functioning of any children in the household.

When any of the information listed in this Paragraph is not reasonably available, the preplacement assessment shall state why the information is unavailable.

(c) The assessment is prepared and typed by the agency and shall be reviewed by the agency's adoption review committee, signed and dated by an authorized agency representative when complete and final, and it shall become part of the applicants' permanent record. The agency's adoption review committee shall be composed of a minimum of three members, including an agency representative in a management position in children's services, the child's social worker(s) responsible for the placement and adoption functions of the child's case, and an at-large member selected by the agency.

(d) Once the agency has made a decision regarding the suitability of the applicant as an adoptive placement, the preplacement assessment shall include specific documentation of the factors which support that determination. If the agency determines that the applicant is not suitable to be an adoptive parent, the assessment shall state the specific facts that support the determination. A specific concern is one that reasonably indicates the placement of any minor, or a particular minor, in the home of the applicant would pose a significant risk of harm to the well-being of the minor.

(e) The agency preparing the preplacement assessment may redact from the assessment provided to the placing parent or guardian information reflecting the prospective adoptive parent's financial account balances and information about the prospective adoptive parent's extended family members, including surnames, names of employers, names of schools attended, social security numbers, telephone numbers and addresses.

Authority G.S. 48-2-502; 48-3-303; 131D-10.5; 143B-153.

10A NCAC 70H .0407 SERVICES TO ADOPTIVE APPLICANTS AND FAMILIES

(a) The agency shall provide to ~~adopted~~ adoptive applicants a written statement of the adoption services it provides and of its procedure for selecting a prospective adoptive parent for a child, including the role of the child's parent or guardian and any criteria requested by the child's parent or guardian in the selection process. This statement shall include a schedule of any fees or expenses charged by the agency and a summary of the provisions of Chapter 48 of the General Statutes that pertain to the requirements and consequences of a relinquishment and to the selection of a prospective adoptive parent. An agency which prepares preplacement assessments shall state whether it is available to provide post-placement services, including the report to the court pursuant to G.S. 48-2-501, and whether it can provide adoption services to the adoptee and adoptive parents after the decree of adoption has been entered.

(b) The agency shall discuss the children available for adoption with the adoptive applicants. The selection of a prospective adoptive parent for a minor shall be made by the agency.

(c) Following completion of a preplacement assessment, the agency shall prepare the adoptive applicants for the placement of a particular child. Preparation shall include:

- (1) information about the needs and expectations of the child and of the adoptive family;
- (2) information to the extent allowed by law as specified in G.S. 48-3-205 about the child's background and the health history of the child's birth parents and other relatives; and
- (3) visits with the child prior to placement.

(d) An agency social worker shall visit in the home of the adoptive family after the placement of a child and prior to the decree of adoption. The first visit shall occur within two weeks after placement. Frequency of visits thereafter shall be determined by the child's and family's needs. Observations made during the visits shall be used in making recommendations to the court in regard to the decree of adoption.

(e) When applicable, the agency shall take steps necessary to assure that the adoptive placement is in compliance with the Interstate Compact on the Placement of Children, G.S. 7B-3800.

Authority G.S. 48-2-502; 48-3-203; 48-3-204; 48-3-205; 131D-10.5; 143B-153.

SUBCHAPTER 70I - MINIMUM LICENSING STANDARDS FOR RESIDENTIAL CHILD-CARE

SECTION .0300 - ORGANIZATION AND ADMINISTRATION

10A NCAC 70I .0301 GOVERNANCE

(a) A private residential child-care facility shall operate under articles of incorporation that are filed with the Department of the Secretary of State (<http://www.secretary.state.nc.us>). A private residential child-care facility shall submit a copy of the articles of incorporation to the licensing authority. ~~The articles of incorporation shall have a statement of purpose which describes the geographic area to be served, kinds of children to be admitted, and the range of services to be provided.~~

(b) A private residential child-care facility shall have a governing body that exercises authority over and has responsibility for its operation, policies and practices. The residential child-care facility shall notify the licensing authority of the type and structure of the governing body.

(c) In the case of non-profit or for-profit corporations, the governing body shall:

- (1) be composed of no fewer than six members to include men and women;
- (2) provide for a system of rotation for board members, for limitation to the number of consecutive terms a member may serve;
- (3) establish standing committees;
- (4) provide orientation for new members; and
- (5) meet at least four times annually with a quorum present.

(d) Public residential child-care facilities operated by governmental agencies shall be governed by appointed officials of a governmental unit.

(e) A residential child-care facility shall submit to the licensing authority a list of members of the governing body. This list shall indicate the name, address and terms of membership of each member and shall identify each officer and the term of that office.

(f) A residential child-care facility shall permanently maintain meeting minutes of the governing body and committees.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0600 - SERVICE DELIVERY

10A NCAC 70I .0613 DISCIPLINE AND BEHAVIOR MANAGEMENT

(a) A residential child-care facility shall have written policies and procedures on discipline and behavior management, including the type and use of physical restraint holds, if utilized. A copy of the written policies and procedures shall be provided to and discussed with each child and the child's parents, guardian or legal custodian prior to or at the time of admission. Policies and procedures shall include:

- (1) proactive means for interacting with and teaching children which emphasize praise and encouragement for exhibiting self control and desired behavior; and
- (2) methods for protecting children and others when a child is out of control.

(b) A residential child-care facility shall implement standards for behavior which are reasonable and developmentally appropriate.

(c) A residential child-care facility shall not engage in discipline or behavior management which includes:

- (1) corporal and physical punishment;
- (2) cruel, severe, or humiliating actions;
- (3) discipline of one child by another child;
- (4) denial of food, sleep, clothing or shelter;
- (5) denial of family contact, including family time, telephone or mail contacts with family;

- (6) assignment of extremely strenuous exercise or work;
- (7) verbal abuse or ridicule;
- (8) mechanical restraints;
- (9) a drug used as a restraint, except as outlined in Paragraph (e) of this Rule;
- (10) seclusion or isolation time-out; or
- (11) physical restraints except as outlined in Paragraph (f) of this Rule.

(d) Time-out means the removal of a child to a separate unlocked room or area from which the child is not physically prevented from leaving. The residential child-care facility may use non-isolation time-out as a behavioral control measure when the facility provides it within hearing distance and sight of a staff member. The length of time alone shall be appropriate to the child's age and development.

(e) A drug used as a restraint means a medication used to control behavior or to restrict a child's freedom of movement and is not a standard treatment for the child's medical or psychiatric condition. A drug used as a restraint shall be employed only if required to treat a medical condition. It shall not be employed for the purpose of punishment, staff convenience or as a substitute for adequate staffing.

(f) Physical restraint of a child means physically holding a child who is at imminent risk of harm to himself or others until the child is calm. A residential child-care facility shall only use physical restraint holds approved by the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services. Requests for approval shall be submitted to the North Carolina Interventions (NCI) Quality Assurance Committee, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3022 Mail Service Center, Raleigh, NC 27699-3022.

(g) Physical restraint holds shall be administered only by staff trained in the use of physical restraint holds. No child or group of children shall be allowed to participate in the physical restraint of another child.

(h) Before employing a physical restraint, the residential child-care facility shall take into consideration the child's medical condition and any medications the child may be taking.

(i) No child shall be physically restrained utilizing a protective or mechanical device. Physical restraint holds shall:

- (1) not be used for purposes of discipline or convenience;
- (2) only be used when there is imminent risk of harm to the child or others and less restrictive approaches have failed;
- (3) be administered in the least restrictive manner possible to protect the child or others from imminent risk of harm; and
- (4) end when the child becomes calm.

(j) A residential child-care facility shall:

- (1) ensure that any physical restraint hold utilized on a child is administered by a trained staff member with a second trained staff member in attendance. An exception may occur when no other staff member is present or can be called for immediate assistance. Concurrent with the

- administration of a physical restraint hold and for a minimum of 15 minutes subsequent to the termination of the hold, a staff member shall monitor the child's breathing, ascertain the child is verbally responsive and motorically in control, and ensure the child remains conscious without any complaints of pain. If at any time during the administration of a physical restraint hold the child complains of being unable to breathe or loses motor control, the staff member administering the physical restraint hold shall immediately terminate the hold or adjust the position to ensure that the child's breathing and motor control are not restricted. If at any time the child appears to be in distress, a staff member shall immediately seek medical attention for the child. Following the use of a physical restraint hold, a staff member shall conduct an interview with the child about the incident, and the staff administering the physical restraint hold shall be interviewed about the incident;
- (2) document each incident of a child being subjected to a physical restraint hold on an incident report. This report shall include the following:
- (A) the child's name, age, height and weight;
 - (B) the type of hold utilized;
 - (C) the duration of the hold;
 - (D) the staff member administering the hold;
 - (E) the staff member witnessing the hold;
 - (F) the supervisory staff who reviewed the incident report; less restrictive alternatives that were attempted prior to utilizing physical restraint;
 - (G) the child's behavior which necessitated the use of physical restraint; whether the child's condition necessitated medical attention;
 - (H) planning and debriefing conducted with the child and staff to eliminate or reduce the probability of reoccurrence; and
 - (I) the total number of restraints of the child since admission.
- Within 72 hours, supervisory staff shall review the incident report to ensure that correct steps were followed and shall forward the report to the parents, guardian or legal custodian and the licensing authority on a report form developed by the licensing authority. If a child dies as a result of a physical restraint hold, the residential child-care facility shall report the death of the child to the parents, guardian or legal custodian and to the licensing authority within 72 hours;
- (3) submit a summary report to the licensing authority by the 10th day of each month indicating the number of physical restraint holds used during the previous month on each child and any injuries that resulted;
- (4) ensure that any physical restraint hold utilized on a child is administered by a trained staff member who has completed at least 16 hours of training in behavior management, including techniques for de-escalating problem behavior, the appropriate use of physical restraint holds, monitoring of the child's breathing, verbal responsiveness and motor control. Training shall also include debriefing children and staff involved in physical restraint holds. Thereafter, staff authorized to use physical restraint holds shall annually complete at least eight hours of behavior management training, including techniques for de-escalating problem behavior. Instructor qualifications and training requirements ~~shall~~ include:
- (A) trainers shall demonstrate competence by scoring ~~100%~~ 100 percent on testing in a training program aimed at preventing, reducing and eliminating the need for restrictive interventions; trainers shall demonstrate competence by scoring ~~100%~~ 100 percent on testing in a training program teaching the use of physical restraint;
 - (B) trainers shall demonstrate competence by scoring a passing grade on testing in an instructor training program;
 - (C) the training shall be competency-based, and shall include measurable learning objectives, measurable testing (written and by observation of behavior) on those objectives and measurable methods to determine passing or failing the course;
 - (D) the content of the instructor training shall be approved by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services and shall include, presentation of understanding the adult learner, methods of teaching content of the course, evaluation of trainee performance and documentation procedures;
 - (E) trainers shall be retrained at least annually and demonstrate competence in the use of physical restraint;
 - (F) trainers shall be ~~currently~~ trained in CPR;
 - (G) trainers shall have coached experience in teaching the use of restrictive interventions at least two times with a positive review by the

- ~~coach, coach; trainers shall teach a program on the use of physical restraints at least once annually; and~~
- (H) trainers shall teach a program on the use of physical restraints at least once annually; and
- ~~(H)(I)~~ trainers shall complete a refresher instructor training at least every two years.
- (5) complete an annual review of the discipline and behavior management policies and techniques to verify that the physical restraint holds being utilized are being applied properly and safely. This review shall be documented and submitted to the licensing authority as part of the biennial licensing renewal application; and
- (6) maintain reports of physical restraint holds in a manner consistent with the agency's risk management policies (clinical decisions and activities undertaken to identify, evaluate and reduce the risk of injury to clients, staff and visitors and reduce the risk of loss to the agency) and make them available to the licensing authority upon request.

Authority G.S. 131D-10.5; 143B-153.

SECTION .0900 - PHYSICAL PLANT

10A NCAC 70I .0901 APPLICATION OF PHYSICAL PLANT REQUIREMENTS

- (a) New construction and existing buildings proposed for use as a residential child-care facility for initial licensure shall comply with the requirements of this Section.
- (b) Except where otherwise specified, existing licensed facilities or portions of existing licensed facilities shall meet licensure and code requirements in effect at the time of ~~construction, initial licensure, construction;~~ change in ~~service, service;~~ or change in resident capacity or evacuation capability of the residents, addition, renovation or alteration.
- (c) New additions, alterations, modifications and repairs made to the building shall meet the requirements of this Section.
- (d) A residential child-care facility shall not have two different types of occupancies, as defined in the State Building Code, in the same building.
- (e) Rules contained in this Section are the Physical Plant requirements and do not prohibit buildings, systems or operational conditions that exceed these requirements.
- (f) Equivalency: Alternate methods, procedures, design criteria and functional variations from the physical plant requirements shall be approved by the Division of Health Service Regulation when the facility can demonstrate to the Division of Health Service Regulation's satisfaction, that the intent of the physical plant requirements are met and the variation does not reduce the safety or operational effectiveness of the facility.
- (g) The residential child-care facility must comply with all applicable local, state and federal regulations.

Authority G.S. 131D-10.5; 143B-153.

10A NCAC 70I .0902 DESIGN AND CONSTRUCTION

- (a) Any building licensed for the first time as a residential child-care facility shall meet the applicable requirements of the North Carolina State Building Code. All new construction, additions and renovations to existing buildings shall meet the occupancy requirements of the North Carolina State Building Code for One and Two Family Dwellings, Licensed Residential Care Facilities or Institutional Occupancy as determined by the Division of Health Service Regulation based on the number and age of the licensed children residents and any other dependents of the live-in staff. The North Carolina State Building Code, which is incorporated by reference, including all subsequent amendments can be purchased for one hundred six dollars and twenty-five cents (\$106.25) at the following web site: (http://www.ncdoi.com/OSFM/Engineering/CodeServices/engineering_codeservices_sales.asp) or calling 919-681-6550.
- (b) Mobile homes, whether mobile or permanently situated, shall not be used for residential child-care facilities.
- (c) Each facility shall be planned, constructed, equipped and maintained to provide the services offered in the facility.
- (d) Any existing building converted from another use to a residential child-care facility shall meet all the requirements of a new facility.
- (e) Any existing licensed residential child-care facility when the license is terminated for more than 60 days shall meet all requirements of a new facility prior to being relicensed.
- (f) Any existing licensed residential child-care facility that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.
- (g) Any existing licensed residential child-care facility that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service Regulation, Construction Section for review and approval prior to commencement of the work.
- (h) The applicant for a resident child-care facility shall consult the local code enforcement official for information on required permits and building code requirements before starting any construction or renovations.
- (i) If the building is two stories in height and is classified as a Residential Occupancy, it shall meet the following requirements:
- (1) Children less than six years old shall not be housed on any floor other than the level of exit discharge with adult supervision.
 - (2) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building shall be provided. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection.
- (j) The basement and the attic shall not to be used for storage or sleeping.
- (k) The ceiling shall be at least seven and one-half feet from the floor.
- (l) All windows shall be maintained operable.

(m) The sanitation, water supply, sewage disposal and dietary facilities shall comply with the rules of the North Carolina Commission for Public Health, which are incorporated by reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions", 15A NCAC 18A .1300 and the "Rules Governing Sanitation of Residential Care Facilities" 15A NCAC 18A .1600 are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost.

(n) The residential child-care facility shall request and obtain current inspections from the local sanitarian and the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority with the licensure renewal application.

Authority G.S. 131D-10.5; 143B-153.

10A NCAC 70I .0918 VEHICLES USED FOR TRANSPORTATION OF CHILDREN

(a) Vehicle Requirements for Transporting Children.

- (1) Vehicles shall comply with all motor vehicle laws and regulations for the State of North Carolina.
- (2) Motor vehicles shall be maintained in a safe operating ~~condition~~, condition and shall be ~~properly registered~~, registered and ~~shall have current, valid inspection stickers for the State of North Carolina~~. inspected.
- (3) A first-aid kit shall be in all motor vehicles.
- (4) The bed of an open body or a stake bed vehicle shall not be used for transporting children.

(b) Driver Requirements. The name of and a copy of a valid driver's license for each person transporting children shall be maintained in a separate file at the facility.

(c) Safety Practices for Transporting Children.

- (1) The interior of each vehicle shall be maintained in a clean and safe condition with clear passage to operable doors.
- (2) The driver shall ~~assure~~ ensure that all passengers follow North Carolina laws regarding seat belt usage and shall adhere to child passenger restraint laws when transporting children.
- (3) The driver shall not transport more persons, including children and adults, than allowed by the design capacity of the vehicle.
- (4) Children shall have at least one 30 minute rest stop for every four hours of continuous travel.
- (5) Children shall not be transported for more than 10 hours in any 24-hour period.

(d) Transportation Records. Insurance verification and the vehicle identification certificate shall be kept in the vehicle in accordance with State law. Emergency medical information shall be kept in the vehicle for each child occupying the vehicle.

(e) Insurance. If a residential child-care facility's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility shall maintain a file copy of the individual's or firm's insurance coverage.

(f) Emergency Transportation. A residential child-care facility shall have a plan for transporting children when emergency situations arise that includes:

- (1) the need for immediate medical care;
- (2) picking a child up at school before the end of the school day; and
- (3) transporting the child during adverse weather conditions.

Authority G.S. 131D-10.5; 143B-153.

SUBCHAPTER 70J - MINIMUM LICENSING STANDARDS FOR SPECIALIZED RESIDENTIAL CHILD CARE PROGRAMS

SECTION .0100 - CHILDREN'S FOSTER CARE CAMPS

10A NCAC 70J .0101 APPLICABILITY

In addition to the rules in 10A NCAC 70I .0100 through ~~.0504~~, .0615, the rules in this Section apply to all persons licensed or seeking licensure for a children's foster care camp as defined in 10A NCAC 70I .0201.

Authority G.S. 131D-10.5; 143B-153.

SUBCHAPTER 70K - RESIDENTIAL MATERNITY HOMES

SECTION .0200 - MINIMUM LICENSURE STANDARDS

10A NCAC 70K .0201 PERSONNEL

(a) Staff Qualifications and Functions.

- (1) Executive Director. There shall be an executive director employed for the general management and supervision of the maternity home. The executive director shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory, which can be obtained by calling Higher Education Publications, Inc. at 1-888-349-7715. The executive director shall have the following responsibilities:
 - (A) direct the maternity home's program of care and services in accordance with policies established by the governing board and within license standards;
 - (B) recruit, employ, supervise and discharge staff;
 - (C) assure a training program for staff;
 - (D) prepare the annual budget, supervise expenditures, and operate within the budget established;
 - (E) establish and maintain good working relationships with other human

- service agencies and represent the agency in the community; and
- (F) delegate authority to a staff member meeting the qualifications described in Paragraph (a)(1) of this Rule, during his or her absence.
- (2) Professional Services Staff. The maternity home shall have available professional services personnel to assure appropriate services are provided for each resident in accordance with her case plan or out-of-home family services agreement.
- (3) Social Work Supervisor. Effective July 1, 2010 social work supervisors shall be employed by the maternity home to supervise, evaluate and monitor the work and progress of the social work staff. If the maternity home employs staff to provide social work services, it shall employ a person who is responsible for supervising, evaluating, and monitoring the work and progress of the social work staff. The social work supervisor shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory. Social work supervisors shall receive 24 hours of continuing education annually.
- (4) Social Worker. If the maternity home employs social workers to be responsible for intake services, providing social work services to the residents and their families, coordinating the services and resources affecting the client and their families, the social worker shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory. Effective July 1, 2009 social workers shall be employed by the maternity home to provide intake services and social work services to the residents and their families in accordance with the case plan or out-of-home family services agreement. Social workers shall have a bachelor's degree from a college or university listed in the most current edition of the Higher Education Directory. Social workers shall receive 24 hours of continuing education annually.
- (5) Direct Care Staff. All direct care staff ~~hired~~ shall have a high-school diploma or GED. Direct care staff shall receive 24 hours of continuing education annually.
- (6) Direct Care Supervisory Staff. All direct care supervisory staff shall have a high-school diploma or GED. Direct care supervisory staff shall receive 24 hours of continuing education annually.
- (7) Staff members of the maternity home may maintain dual employment or serve as volunteers with adoption agencies or crisis pregnancy centers as long as the maternity

home does not provide services to the clients of the adoption agency or crisis pregnancy center. Staff members of the maternity home may serve on the board of directors of adoption agencies or crisis pregnancy centers as long as the adoption agency or crisis pregnancy center does not provide services to the clients of the maternity home.

(b) Staffing Requirements. ~~For maternity homes that employ staff as social workers and social work supervisors, there~~ There shall be at least one social worker assigned for every 15 residents. Supervision of social workers shall be assigned as follows:

Supervisors Required	Social Workers Employed
0	0-4 (executive director serves as social work supervisor)
1	5
2	6-10
3	11-15

There shall be one additional supervisor for every one to five additional social workers.

(c) Direct Care Staff. Direct care staff shall be employed for direct care of maternity home residents (residents include mothers and infants). Effective July 1, 2010 there shall be at least one direct care staff member assigned for every eight residents during waking hours and one direct care staff member for every 12 residents during sleeping hours. Additional direct care staff or other personnel shall be available to assist with emergency situations or special needs of the residents.

(d) Direct Care Supervisory Staff. Effective July 1, 2009 there shall be at least one direct care supervisor for every 15 direct care staff members.

(e) Volunteers and Interns. If the maternity home uses volunteers or interns to work directly with residents, the requirements of 10A NCAC 70F .0207 apply.

(f) Additional Personnel Requirements. In addition to those requirements specified in 10A NCAC 70F .0207, the following rules are applicable to maternity home programs:

- (1) Health Examinations. All direct care staff, food service staff and anyone serving in the capacity of direct care staff and food service staff shall have a medical examination completed by a physician, physician's assistant, or nurse practitioner, hereafter referred to as "licensed medical provider," within at least 12 months before beginning employment and biennially thereafter. The agency shall maintain documentation that all direct care staff and food service staff or anyone serving in the capacity of direct care staff and food service staff have had a TB skin test or chest x-ray prior to employment unless contraindicated by a licensed medical provider. A medical history form shall be completed by all direct care staff and food service staff. Examinations must include tests

necessary to determine that the staff member is able to carry out assigned duties and does not have any communicable disease or condition which poses risk of transmission in the facility. A report of each examination shall be made a part of the employee's personnel file. A medical examination report shall be completed on any adopted children or relative children of direct care staff residing in the maternity home within 12 months prior to the license date. The birth children of direct care staff who reside in the maternity home shall be tested for TB only if one or more of the parents tests positive for TB. There shall be documentation that adopted children or other relative children residing in the maternity home have had a TB skin test or chest x-ray prior to initial licensure unless contraindicated by a licensed medical provider. A medical examination and TB test, if required, shall be completed on any children or relative children of direct care staff who subsequently begin residing in the maternity home. Examinations shall include tests necessary to determine that the children or relative children of staff members who reside in the maternity home do not have any communicable diseases or conditions which poses risk of transmission in the facility. A medical history form shall be completed on any children or relative children of direct care staff who reside in the living unit. Medical examination reports and medical history forms of children of the residents residing the maternity home shall be maintained in the personnel file of their parent or relative.

(2) Staff Development. The maternity home staff shall have a written staff development plan which provides staff training in the following areas:

- (A) medical, physical, and psychological aspects of pregnancy;
- (B) prenatal and postnatal care;
- (C) developmental needs of adolescents and young adults;
- (D) developmental needs of infants and children;
- (E) parenting preparation classes;
- (F) stages of growth in infants;
- (G) day-to-day care of infants; ~~discipline;~~
- (H) proper disciplinary techniques for infants, children and adolescents;
- ~~(H)~~(I) education planning;
- ~~(I)~~(J) job seeking skills;
- ~~(J)~~(K) locating housing;
- ~~(K)~~(L) money management;
- ~~(L)~~(M) food management;
- ~~(M)~~(N) child care;
- ~~(N)~~(O) health education;
- ~~(O)~~(P) stress management;

- ~~(P)~~(Q) life skills;
- ~~(Q)~~(R) decision making;
- ~~(R)~~(S) substance abuse;
- ~~(S)~~(T) pregnancy prevention;
- ~~(T)~~(U) counseling skills;
- ~~(U)~~(V) emergency medical care; and
- ~~(V)~~(W) nutrition and food preparation.

Social workers, social work supervisors, direct care staff and direct care staff supervisors shall receive 24 hours of continuing education annually.

Authority G.S. 131D-1; 143B-153.

10A NCAC 70K .0204 PROGRAM OF CARE

- (a) The program of care shall be suited to the needs of adolescent and adult women experiencing an unplanned pregnancy. There shall be opportunity provided for private time, for family contacts, and for group fellowship.
- (b) The residents shall be free from duress to make their own decisions about releasing or keeping their babies.
- (c) The residents shall be provided confidentiality concerning their situations and protection from harm insofar as possible.
- (d) Educational opportunities shall be provided or arranged by the residential maternity home in accordance with the needs of individual residents and resources available in the community. For those residents who are required to attend school under the compulsory school attendance laws of North Carolina, the maternity home shall arrange for attendance in a public or a nonpublic school which is operated in accordance with the laws of North Carolina. If a school or educational program is maintained and operated by the maternity home which residents attend in lieu of attending public schools, the maternity home shall comply with the North Carolina General Statutes governing nonpublic schools. Opportunity shall be offered to residents who wish to participate in educational courses available in the community.
- (e) Health education including information about pregnancy, delivery, and family planning services shall be provided residents. Information about the care of infants shall be made available to the residents who want this information.
- (f) Recreational activities shall be provided which meet the needs of residents. Suitable space shall be provided at the maternity home for both indoor and outdoor activities. Participation in community activities shall be provided.
- (g) Work assignments in the maternity home shall be geared to the physical health and emotional well-being of the residents in care. Residents shall be given the opportunity to voluntarily seek paid employment when employment is in accordance with the recommendation of their licensed medical provider and other professional staff of the maternity home. No resident shall be required to work for the purpose of paying the maternity home for her care.
- (h) The maternity home shall define in writing and make available to applicants and residents those rules and regulations which the residents shall be expected to follow. These rules and regulations shall respect the personal freedom of the residents. These rules and regulations shall not infringe on the residents' rights to send and receive uncensored mail and for planned visits with their families and others. Visitors shall not be allowed to

visit minors without prior consent of the parents or guardian, or legal custodian.

(i) Nutritious foods shall be provided in the variety and amounts necessary to meet the National Research Council's Recommended Daily Dietary Allowances (USDA Center for Nutrition Policy and Promotion, 1120 20th Street, NW, Suite 200N, Washington, DC 20036). Special diets shall be planned to meet the modified needs of individual residents as prescribed by a licensed medical provider. Menus shall be planned and written by, or in consultation with, a licensed dietician/nutritionist. Menus shall be planned and written at least one week in advance. Snacks shall be recorded on the regular menu.

(j) Each resident shall be provided prenatal care and general health care by a licensed medical provider which includes:

- (1) a complete medical and obstetrical history and examination before or within one week after admission to the home;
- (2) periodic examinations during pregnancy as outlined by the licensed medical provider;
- (3) dental services as needed; and
- (4) medical services as needed.

(k) Each resident shall be provided delivery care in a licensed hospital or any facility licensed as a place for delivery of babies.

(l) All prescription and non prescription medicines shall be stored in a locked cabinet, closet or box not accessible to residents. The agency shall have written policies and procedures regarding staff administering medications to residents that shall be discussed with each resident and their parents or guardian, or legal custodians (if resident is a minor) prior to or upon placement. These policies and procedures shall address:

- (1) medication administration;
- (2) medication dispensing;
- (3) packaging, labeling;
- (4) storage and disposal;
- (5) review;
- (6) education and training; and
- (7) documentation, including medication orders, Medication Administration Record (MAR); orders and copies of lab tests; and, if applicable, administration errors and adverse drug reactions. The residential maternity home shall maintain a MAR for each resident that documents all medications administered. Upon discharge of a resident, the residential maternity home shall return prescription medications to the resident or person or agency legally authorized to remove the minor from residential maternity care. The residential maternity home shall provide oral or written education to the resident or person or agency legally authorized to remove the minor from residential maternity care regarding the medications. Unwanted, outdated, improperly labeled, damaged, adulterated or discontinued prescription medications shall be returned to a pharmacy for disposal.

(m) The residential maternity home shall ensure that first aid kits are available for immediate use in each living unit, recreation area and in vehicles to transport residents. A residential maternity home shall obtain a mouthpiece and other precautionary equipment for administering CPR to the residents.

~~(m)(n)~~ When residents return to the maternity home, post delivery care shall be available to the residents in accordance with the recommendations of the resident's licensed medical provider and the professional staff of the maternity home. A resident shall not be required to remain in the maternity home after medical discharge. Referral to a licensed medical provider or medical clinic or community family planning resource shall be made if requested by the resident.

~~(n)(o)~~ A resident and her infant may be considered for aftercare if the resident was in residential care prior to delivery.

~~(o)(p)~~ The period of aftercare for the resident and her child shall not exceed 12 consecutive months, during which time a plan for independent living shall be developed with the resident and assistance provided in achieving the goal of the plan within the designated time frame.

~~(p)(q)~~ Services provided for the plan of independent living shall include:

- (1) parenting preparation classes;
- (2) stages of growth in ~~infants;~~ infants, children and adolescents;
- (3) day-to-day care of ~~infants;~~ infants, children and adolescents;
- (4) ~~discipline, education planning;~~ proper disciplinary techniques for infants, children and adolescents;
- (5) education planning;
- ~~(5)(6)~~ job seeking skills;
- ~~(6)(7)~~ locating housing;
- ~~(7)(8)~~ money management;
- ~~(8)(9)~~ food management;
- ~~(9)(10)~~ child-care;
- ~~(10)(11)~~ health education;
- ~~(11)(12)~~ stress management;
- ~~(12)(13)~~ life skills;
- ~~(13)(14)~~ decision making;
- ~~(14)(15)~~ substance abuse; ~~and~~
- ~~(15)(16)~~ pregnancy prevention; prevention; and as well as other services based on the individual needs of the resident.
- (17) other services based on the needs of the resident.

~~(q)(r)~~ A case record shall be maintained at the maternity home for each resident which includes documents concerning all social work, counseling, medical, psychological, and dental services, as well as any other services provided to each resident.

Authority G.S. 131D-1; 143B-153.

SECTION .0300 – PHYSICAL PLANT

10A NCAC 70K .0302 DESIGN AND CONSTRUCTION

(a) Any building licensed for the first time as a residential maternity home shall meet the applicable requirements of the North Carolina State Building Code. All new construction,

additions and renovations to existing buildings shall meet the occupancy requirements of the North Carolina State Building Code ~~for One and Two Family Dwellings and Licensed Residential Care Facilities or other classifications~~ as determined by the Division of Health Service Regulation, Construction Section based on the number and age of the mothers, the number of infants and any other dependents of either the expecting mothers or the live-in staff. The North Carolina State Building Code, which is incorporated by reference, including all subsequent amendments can be purchased for one hundred six dollars and twenty-five cents (\$106.25) at the following web site:

(http://www.ncdoi.com/OSFM/Engineering/CodeServices/engineering_codeservices_sales.asp) or calling 919-681-6550.

(b) Mobile homes, whether mobile or permanently situated, shall not be used for residential maternity home facilities.

(c) Each residential maternity home shall be planned, constructed, equipped and maintained to provide the services offered in the home.

(d) Any existing building converted from another use to a residential maternity home shall meet all the requirements of a new facility.

(e) Any existing licensed residential maternity home when the license is terminated for more than 60 days shall meet all requirements of a new home prior to being relicensed.

(f) Any existing licensed residential maternity home that is closed or vacant for more than one year shall meet all requirements of a new facility prior to being relicensed.

(g) Any existing licensed residential maternity home that plans to have new construction, remodeling or physical changes done to the facility shall have drawings submitted by the owner or his appointed representative to the Division of Health Service Regulation for review and approval prior to commencement of the work.

(h) The applicant for a residential maternity home shall consult the local code enforcement official for information on required permits and building code requirements before starting any construction or renovations.

(i) If the building is two stories in height, and is classified as a Residential Occupancy, it shall meet the following requirements:

(1) Infants or children less than six years old shall not be housed on any floor other than the level of exit discharge.

(2) A complete fire alarm system with pull stations on each floor and sounding devices which are audible throughout the building shall be provided. The fire alarm system shall be able to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection.

(j) The basement and the attic shall not to be used for storage or sleeping.

(k) The ceiling shall be at least seven and one-half feet from the floor.

(l) All windows shall be maintained operable.

(m) The sanitation, water supply, sewage disposal and dietary facilities shall comply with the rules of the North Carolina Commission for Public Health which are incorporated by

reference, including all subsequent amendments. The "Rules Governing the Sanitation of Hospitals, Nursing Homes, Adult Care Homes and Other Institutions," 15A NCAC 18A .1300 and the "Rules Governing Sanitation of Residential Care Facilities" 15A NCAC 18A .1600 are available for inspection at the Department of Environment and Natural Resources, Division of Environmental Health, 2728 Capital Boulevard, Raleigh, North Carolina. Copies may be obtained from Environmental Health Services Section, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632 at no cost.

(n) The residential maternity home shall request and obtain current inspections from the local sanitarian and the local fire inspector. Reports of such inspections shall be maintained in the facility and available for review and shall be submitted to the licensing authority with the licensure renewal application.

Authority G.S. 131D-1; 143B-153.

10A NCAC 70K .0307 KITCHEN

(a) The kitchen in a residential maternity home shall be large enough to provide for the preparation and preservation of food and the washing of dishes.

(b) The kitchen floor shall have a non-slippery, water-resistant covering.

(c) The kitchen shall be approved by the local sanitarian for the total number of residents (mothers, infants and any other children), as well as any live-in direct care staff and their dependents.

Authority G.S. 131D-1; 143B-153.

10A NCAC 70K .0318 VEHICLES USED FOR TRANSPORTATION OF RESIDENTS

(a) Vehicle Requirements for Transporting Residents.

(1) Vehicles shall comply with all motor vehicle laws and regulations for the State of North Carolina.

(2) Motor vehicles shall be maintained in a safe operating condition and shall be registered and inspected.

(3) A first-aid kit shall be in all motor vehicles.

(4) The bed of an open body or a stake bed vehicle shall not be used for transporting children.

(b) Driver Requirements. The name of and a copy of a valid driver's license for each person transporting residents shall be maintained in a separate file at the facility.

(c) Safety Practices for Transporting Residents.

(1) The interior of each vehicle shall be maintained in a clean and safe condition with clear passage to operable doors.

(2) The driver shall ensure that all passengers follow North Carolina laws regarding seat belt usage and shall adhere to child passenger restraint laws when transporting children.

(3) The driver shall not transport more persons, including children and adults, than allowed by the design capacity of the vehicle.

(4) Residents shall have at least one 30 minute rest stop for every four hours of continuous travel.

(5) Residents shall not be transported for more than 10 hours in any 24-hour period.

(d) Transportation Records. Insurance verification and the vehicle identification certificate shall be kept in the vehicle in accordance with State law. Emergency medical information shall be kept in the vehicle for each resident occupying the vehicle.

(e) Insurance. If a residential maternity home's transportation services are provided by a private individual, a firm under contract, or by another arrangement, the facility shall maintain a file copy of the individual's or firm's insurance coverage.

(f) Emergency Transportation. A residential maternity home shall have a plan for transporting residents when emergency situations arise that includes:

- (1) the need for immediate medical care;
- (2) picking residents up at school before the end of the school day; and
- (3) transporting residents during adverse weather conditions.

Authority G.S. 131D-1; 143B-153.

CHAPTER 71 – ADULT AND FAMILY SUPPORT

SUBCHAPTER 71L – MATERNITY HOME FUND

10A NCAC 71L .0102 APPROVAL CRITERIA

(a) A county department of social services or a licensed private adoption agency is responsible for social work services for clients for whom they are requesting Maternity Home Funds. Social work services include assisting the client to decide to release the baby for adoption or continue parenting the baby.

~~(a) The agency requesting Maternity Home Funds for a client will carry basic casework responsibility:~~

- ~~(1) The county departments of social services will be responsible for casework and planning for both mothers and infants for whom they are requesting Maternity Home Funds. When distance precludes providing basic casework services while the client is in an approved Maternity Home Fund living arrangement, inter-county services may be requested by a county department of social services.~~
- ~~(2) When a needy client requests services from one of North Carolina's licensed private adoption agencies, the private agency will be responsible for basic casework planning and services in conjunction with the client's receipt of Maternity Home Funds in an approved living arrangement.~~
- ~~(3) Services include helping the client reach her own decisions concerning the future of her baby and her own future and continuation of services to the infant or the mother or both, after she leaves the approved living arrangement.~~

(b) Marital status and age will do not affect eligibility for Maternity Home Funds.

(c) The client must be a resident of the State of North Carolina to be eligible for Maternity Home Funds.

~~(d) A complete exploration of all financial resources available to the client must be made and evidence provided that available resources are insufficient to meet residential costs in an approved living arrangement.~~

~~(d)(e)~~ Maternity Home Fund payment is to supplement any other funds available from applicants, county departments of social services, families or private agencies.

~~(f) Maternity Home Fund reimbursement for residential costs for clients approved by the division of social services is based on the type of facility or living arrangement in which the placement is made.~~

~~(e)(4)~~ Maternity home fund payment ~~Payment~~ to licensed maternity homes is based on the actual per diem cost of care. A maternity home shall maintain a valid maternity home license for a consecutive one year period and submit an audited financial statement to the North Carolina Department of Health and Human Services, Controller's Office (2019 Mail Service Center, Raleigh, NC 27699-2019) before the per diem rate is assigned. A licensed maternity home is eligible for reimbursement from maternity home funds in the second year of operation if this criteria is met and maternity home funds are available.

~~(f)(2)~~ Maternity home fund payment for care in a foster family home will be is the same rate paid for children in foster care by the agency requesting Maternity Home Funds for the client North Carolina standard board rate for foster care assistance set by the General Assembly. The current standard board payment for foster care assistance can be obtained from the North Carolina Division of Social Services (952 Old U.S. 70 Highway, Black Mountain, NC 28711).

~~(g)(3)~~ Maternity home fund payment for care of residential eosts in the home of a non-legally responsible relative or in a boarding arrangement will shall not exceed the rate paid for children in foster care by the agency requesting Maternity Home Funds for the client North Carolina standard board rate for foster care assistance. Boarding home arrangements must be jointly approved by the agency requesting funds and the division of social services.

Authority G.S. 143B-153.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rules cited as 15A NCAC 13A .0102, .0103, and .0106.

Proposed Effective Date: October 1, 2009

Public Hearing:

Date: June 16, 2009

Time: 9:30 a.m.

Location: 401 Oberlin Road, Suite 150, Conference Rooms 1 and 2, Raleigh, NC 27605

Reason for Proposed Action: *The recent federal regulations revising the definition of solid waste are less stringent than the current regulations now in effect in North Carolina. The amendment will allow North Carolina to maintain the status quo of current rules.*

15A NCAC 13A .0102 - *The proposed amendment will maintain current definitions for "Facility" and "Transfer facility" in 15A NCAC 13A .0102 while unadopting the revised definitions for "Facility" and "Transfer facility" in 40 CFR 260.10. The definitions for "Hazardous secondary material," "Hazardous secondary material generated and reclaimed under the control of the generator," "Hazardous secondary material generator," "Intermediate facility," and "Land-based unit" which were recently added to Subpart B of 40 CFR Part 260 are not incorporated by reference. 15A NCAC 13A .0102 Definitions - Defines the meaning of key words as used in the rules.*

15A NCAC 13A .0103 - *In order to maintain the status quo of the "Non-waste determinations, and variances from classification as a solid waste" rule incorporated by reference in 40 CFR 260.30, Section 260.30(d) and 260.30(e) are not incorporated by reference. The amendment to unadopt shall include 40 CFR 260.33(c), 260.34, 260.42 and 260.43 which were added to Subpart C of 40 CFR Part 260 and have been determined to be less stringent than the current North Carolina rules, and further study is needed in order to decide whether to adopt. 15A NCAC 13A .0103 Petitions – Part 260 – Establishes procedures to petition for rule changes. Establishes freedom of information and confidential information.*

15A NCAC 13A .0106 - *The recent federal regulations revising the definition of solid waste are less stringent than the current regulations now in effect in North Carolina. The proposed amendments to Rule .0106(a) to not incorporate 40 CFR 261.2(a)(2)(ii) and 40 CFR 261.4(a)(23), 261.4(a)(24), and 261.4(a)(25) will allow North Carolina to maintain the status quo of current rules in order to allow further study to decide whether to adopt. 15A NCAC 13A .0106 Identification and Listing of Hazardous Wastes – Part 261 identifies characteristics of hazardous waste and lists certain hazardous wastes.*

Procedure by which a person can object to the agency on a proposed rule: *Objections may be filed in writing by contacting: Elizabeth W. Cannon, Chief, Hazardous Waste Section, 1646 Mail Service Center, Raleigh, NC 27699-1646. Written objections to the proposed text of the Rule published in the North Carolina Register shall be specific. All comments and written exceptions for or against the text of the Rule will be considered.*

Comments may be submitted to: *Elizabeth W. Cannon, Chief, Hazardous Waste Section, 401 Oberlin Road, 1646 Mail Service Center, Raleigh, NC 27699-1646, phone (919) 508-8534, fax (919) 715-3605, email Elizabeth.Cannon@ncdenr.gov*

Comment period ends: *July 31, 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 919-431-3000.

Fiscal Impact:

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

CHAPTER 13 – SOLID WASTE MANAGEMENT

SUBCHAPTER 13A - HAZARDOUS WASTE MANAGEMENT

SECTION .0100 - HAZARDOUS WASTE

15A NCAC 13A .0102 DEFINITIONS

(a) The definitions contained in G.S. 130A-290 apply to this Subchapter.

(b) 40 CFR 260.10 (Subpart B), Definitions, is incorporated by reference, including subsequent amendments and editions except that the Definitions for "Disposal," "Landfill," "Management or hazardous waste management," "Person," "Sludge," "Storage," and "Treatment" are defined by G.S. 130A-290 and are not incorporated by ~~reference~~ reference, and the definitions in 260.10 for "Facility," "Transfer Facility," "Hazardous secondary material," "Hazardous secondary material generated and reclaimed under the control of the generator," "Hazardous secondary material generator," "Intermediate facility," and "Land-based unit" are not incorporated by reference.

(c) The following definitions shall be substituted for "Facility" and "Transfer Facility:"

(1) "Facility" means:

(A) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

(B) For the purpose of implementing corrective action under 40 CFR 264.101, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA. This definition

also applies to facilities implementing corrective action under RCRA Section 3008(h).

(C) Notwithstanding Part (B) of this definition, a remediation waste management site is not a facility that is subject to 40 CFR 264.101, but is subject to corrective action requirements if the site is located within such a facility.

(2) "Transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

~~(e)~~(d) The following additional definitions shall apply throughout this Subchapter:

- (1) "Section" means the Hazardous Waste Section, in the Division of Waste Management, Department of Environment and Natural Resources.
- (2) The "Department" means the Department of Environment and Natural Resources (DENR).
- (3) "Division" means the Division of Waste Management (DWM).
- (4) "Long Term Storage" means the containment of hazardous waste for an indefinite period of time in a facility designed to be closed with the hazardous waste in place.
- (5) "Off-site Recycling Facility" means any facility that receives shipments of hazardous waste from off-site to be recycled or processed for recycling through any process conducted at the facility, but does not include any facility owned or operated by a generator of hazardous waste solely to recycle their own waste.

Authority G.S. 130A-294(c); 150B-21.6.

15A NCAC 13A .0103 PETITIONS - PART 260

(a) All rulemaking petitions for changes in this Subchapter shall be made in accordance with 15A NCAC 24B .0101.

(b) In applying the federal requirements incorporated by reference in this Rule, "15A NCAC 24B .0101" shall be substituted for references to 40 CFR 260.20.

(c) 40 CFR 260.21 through ~~260.41~~ 260.43 (Subpart C), "Rulemaking Petitions," are incorporated by reference including subsequent amendments and ~~editions~~ editions, except that 40 CFR 260.30(d), 260.30(e), 260.33(c), 260.34, 260.42 and 260.43 are not incorporated by reference.

Authority G.S. 130A-294(c); 150B-21.6.

15A NCAC 13A .0106 IDENTIFICATION AND LISTING OF HAZARDOUS WASTES - PART 261

(a) 40 CFR 261.1 through 261.9 (Subpart A), "General," are incorporated by reference including subsequent amendments and ~~editions~~ editions, except that 40 CFR 261.2(a)2(ii) and 40 CFR 261.4(a)(23), 261.4(a)(24), and 261.4(a)(25) are not incorporated by reference.

(b) 40 CFR 261.10 through 261.11 (Subpart B), "Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Waste," are incorporated by reference including subsequent amendments and editions.

(c) 40 CFR 261.20 through 261.24 (Subpart C), "Characteristics of Hazardous Waste" are incorporated by reference including subsequent amendments and editions.

(d) 40 CFR 261.30 through 261.37 ~~Subpart D~~, (Subpart D), "Lists of Hazardous Wastes" are incorporated by reference including subsequent amendments and editions.

(e) 40 CFR 261.38 through 261.41 (Subpart E), "Exclusions/Exemptions" are incorporated by reference including subsequent amendments and editions.

(f) The Appendices to 40 CFR Part 261 are incorporated by reference including subsequent amendments and editions.

Authority G.S. 130A-294(c); 150B-21.6.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on April 16, 2009.

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

<u>Scope</u>	01	NCAC	44A	.0101	23:11 NCR
<u>Denial</u>	01	NCAC	44A	.0206*	23:11 NCR
<u>Challenge Initiation</u>	01	NCAC	44A	.0401*	23:11 NCR
<u>HUB Status During Challenge</u>	01	NCAC	44A	.0404	23:11 NCR
<u>Reasons for Revocation</u>	01	NCAC	44A	.0501	23:11 NCR
<u>Notice</u>	01	NCAC	44A	.0502	23:11 NCR
<u>Review</u>	01	NCAC	44A	.0601	23:11 NCR
<u>Status Pending Review</u>	01	NCAC	44A	.0605	23:11 NCR

PESTICIDE BOARD

<u>General Requirements</u>	02	NCAC	09L	.1002*	23:08 NCR
<u>Specific Information About Applications</u>	02	NCAC	09L	.1807*	23:08 NCR

HHS - MENTAL HEALTH, DIVISION OF

<u>General</u>	10A	NCAC	27G	.0701	23:09 NCR
<u>Accreditation Review</u>	10A	NCAC	27G	.0702	23:09 NCR
<u>Accreditation of the Area Program</u>	10A	NCAC	27G	.0703	23:09 NCR
<u>Denial r Revocation of the Accreditation</u>	10A	NCAC	27G	.0704	23:09 NCR
<u>Interim Accreditation for New Services</u>	10A	NCAC	27G	.0705	23:09 NCR
<u>Reciprocity</u>	10A	NCAC	27G	.0706	23:09 NCR
<u>Purchase of Service and Capitation Contracts</u>	10A	NCAC	27G	.0707	23:09 NCR

MENTAL HEALTH, COMMISSION FOR

<u>Scope</u>	10A	NCAC	29D	.0301	23:07 NCR
<u>Definition</u>	10A	NCAC	29D	.0302	23:07 NCR
<u>Area Authorities and Catchment</u>	10A	NCAC	29D	.0303	23:07 NCR
<u>Change of Catchment Areas</u>	10A	NCAC	29D	.0304	23:07 NCR

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Basic Law Enforcement Training</u>	12	NCAC	09B	.0205*	23:09 NCR
<u>Lateral Transfer of Law Enforcement Officers</u>	12	NCAC	09C	.0306*	23:09 NCR
<u>Agency Reporting of Drug Screening Results</u>	12	NCAC	09C	.0310*	23:09 NCR
<u>Minimum Training Specifications</u>	12	NCAC	09H	.0102*	23:03 NCR

LABOR, DEPARTMENT OF

<u>Toxic and Hazardous Substances</u>	13	NCAC	07F	.0106	23:14 NCR
<u>Definitions</u>	13	NCAC	07F	.0903*	23:12 NCR
<u>Operator Qualification and Certification</u>	13	NCAC	07F	.0904*	23:12 NCR

APPROVED RULES

<u>Signal Person Qualification</u>	13	NCAC	07F	.0905*	23:12 NCR
<u>Operation of Equipment</u>	13	NCAC	07F	.0916*	23:12 NCR
<u>Signals</u>	13	NCAC	07F	.0919*	23:12 NCR
<u>Hoisting Personnel</u>	13	NCAC	07F	.0920*	23:12 NCR
<u>Tower Cranes</u>	13	NCAC	07F	.0921*	23:12 NCR

WILDLIFE RESOURCES COMMISSION

<u>Big Game Kill Reports</u>	15A	NCAC	10B	.0113*	23:11 NCR
<u>Wildlife Collectors</u>	15A	NCAC	10B	.0119*	23:11 NCR
<u>Bear</u>	15A	NCAC	10B	.0202	23:11 NCR
<u>Wild Boar (Both Sexes)</u>	15A	NCAC	10B	.0204	23:11 NCR
<u>Squirrels</u>	15A	NCAC	10B	.0206	23:11 NCR
<u>Wild Turkey</u>	15A	NCAC	10B	.0209*	23:11 NCR
<u>Foxes (Gray and Red)</u>	15A	NCAC	10B	.0212	23:11 NCR
<u>Crow</u>	15A	NCAC	10B	.0215	23:11 NCR
<u>Open Seasons</u>	15A	NCAC	10B	.0302*	23:11 NCR
<u>Bag Limits</u>	15A	NCAC	10B	.0303	23:11 NCR
<u>Public Mountain Trout Waters</u>	15A	NCAC	10C	.0205*	23:11 NCR
<u>Spawning Areas</u>	15A	NCAC	10C	.0208	23:11 NCR
<u>Open Seasons: Creel and Size Limits</u>	15A	NCAC	10C	.0305	23:11 NCR
<u>Manner of Taking Non-game Fishes: Purchase and Sale</u>	15A	NCAC	10C	.0401*	23:11 NCR
<u>General Regulations Regarding Use</u>	15A	NCAC	10D	.0102	23:11 NCR
<u>Hunting On Game Lands</u>	15A	NCAC	10D	.0103*	23:11 NCR
<u>Fishing on Game Lands</u>	15A	NCAC	10D	.0104	23:11 NCR
<u>Use of Areas Regulated</u>	15A	NCAC	10E	.0104*	23:11 NCR
<u>Bird Feeders</u>	15A	NCAC	10H	.0108	23:11 NCR
<u>Quail Call-Pen Traps</u>	15A	NCAC	10H	.0109*	23:11 NCR
<u>Quail Call-Pen Traps</u>	15A	NCAC	10H	.0907*	23:11 NCR
<u>Possession of Reptiles and Amphibians</u>	15A	NCAC	10H	.1302	23:11 NCR
<u>Protection of Endangered/Threatened/Special Concern Species</u>	15A	NCAC	10I	.0102*	23:11 NCR

EDUCATION, BOARD OF

<u>Teacher Evaluation Process</u>	16	NCAC	06C	.0503*	23:12 NCR
<u>Rubric for Teacher Evaluation</u>	16	NCAC	06C	.0504*	23:12 NCR

REVENUE, DEPARTMENT OF

<u>Supplies and Equipment</u>	17	NCAC	07B	.1202*	n/a G.S. 150B-1(d)(4)
<u>Housing Authorities</u>	17	NCAC	07B	.1705*	n/a G.S. 150B-1(d)(4)
<u>Oxygen</u>	17	NCAC	07B	.1804*	n/a G.S. 150B-1(d)(4)
<u>Hospital Supplies</u>	17	NCAC	07B	.1805*	n/a G.S. 150B-1(d)(4)
<u>Tire Repair Materials</u>	17	NCAC	07B	.1903*	n/a G.S. 150B-1(d)(4)
<u>Sales by Tire Recappers</u>	17	NCAC	07B	.1904*	n/a G.S. 150B-1(d)(4)
<u>Propane Sold to Schools</u>	17	NCAC	07B	.2103*	n/a G.S. 150B-1(d)(4)
<u>Aviation Fuel</u>	17	NCAC	07B	.2105*	n/a G.S. 150B-1(d)(4)
<u>Food and Food Products</u>	17	NCAC	07B	.2201*	n/a G.S. 150B-1(d)(4)
<u>Disposable Lunchroom Supplies</u>	17	NCAC	07B	.2202*	n/a G.S. 150B-1(d)(4)

APPROVED RULES

<u>Meals on Trains: Planes: Etc.</u>	17	NCAC	07B	.2204*	n/a G.S. 150B-1(d)(4)
<u>Caterers</u>	17	NCAC	07B	.2205*	n/a G.S. 150B-1(d)(4)
<u>Food Service Supplies</u>	17	NCAC	07B	.2207*	n/a G.S. 150B-1(d)(4)
<u>Fraternity and Sorority Meals</u>	17	NCAC	07B	.2208*	n/a G.S. 150B-1(d)(4)
<u>In General</u>	17	NCAC	07B	.2301*	n/a G.S. 150B-1(d)(4)
<u>Sales by Veterinarians</u>	17	NCAC	07B	.2402*	n/a G.S. 150B-1(d)(4)
<u>Weigh Hoppers Sold to Contractors</u>	17	NCAC	07B	.2603*	n/a G.S. 150B-1(d)(4)
<u>Sand: Stone Sold to Contractors</u>	17	NCAC	07B	.2604*	n/a G.S. 150B-1(d)(4)
<u>Sandblast Sand Sold to Contractors</u>	17	NCAC	07B	.2605*	n/a G.S. 150B-1(d)(4)
<u>Repossessions</u>	17	NCAC	07B	.3002*	n/a G.S. 150B-1(d)(4)
<u>Repair Parts for Used Property</u>	17	NCAC	07B	.3005*	n/a G.S. 150B-1(d)(4)
<u>Used Property Sold for Repair Charges</u>	17	NCAC	07B	.3011*	n/a G.S. 150B-1(d)(4)
<u>Trade: Grain for Flour</u>	17	NCAC	07B	.3012*	n/a G.S. 150B-1(d)(4)
<u>Radio and Television: Etc. Receipts</u>	17	NCAC	07B	.3101*	n/a G.S. 150B-1(d)(4)
<u>Rental of Films: Recordings</u>	17	NCAC	07B	.3103*	n/a G.S. 150B-1(d)(4)
<u>Supplies to Install Memorial Stones/Monuments/Bronze Grav...</u>	17	NCAC	07B	.3403*	n/a G.S. 150B-1(d)(4)
<u>Molds: Dies: For Resale</u>	17	NCAC	07B	.3503*	n/a G.S. 150B-1(d)(4)
<u>Molds: Dies: Nonmanufacturers' Use</u>	17	NCAC	07B	.3505*	n/a G.S. 150B-1(d)(4)
<u>Lubricating Service</u>	17	NCAC	07B	.3701*	n/a G.S. 150B-1(d)(4)
<u>Car Wash Businesses</u>	17	NCAC	07B	.3703*	n/a G.S. 150B-1(d)(4)
<u>Sales of Trading Stamps</u>	17	NCAC	07B	.3802*	n/a G.S. 150B-1(d)(4)
<u>Gift Certificates</u>	17	NCAC	07B	.3804*	n/a G.S. 150B-1(d)(4)
<u>Royalties</u>	17	NCAC	07B	.4402*	n/a G.S. 150B-1(d)(4)
<u>Maintenance of Leased Property</u>	17	NCAC	07B	.4403*	n/a G.S. 150B-1(d)(4)
<u>Insurance on Leased Property</u>	17	NCAC	07B	.4406*	n/a G.S. 150B-1(d)(4)
<u>Golf Driving Range Fees</u>	17	NCAC	07B	.4414*	n/a G.S. 150B-1(d)(4)
<u>Skating Rink Fees</u>	17	NCAC	07B	.4415*	n/a G.S. 150B-1(d)(4)
<u>Garment Repairs and Storage</u>	17	NCAC	07B	.4506*	n/a G.S. 150B-1(d)(4)
<u>Uniform Rentals</u>	17	NCAC	07B	.4509*	n/a G.S. 150B-1(d)(4)
<u>Dyeing of Garments</u>	17	NCAC	07B	.4511*	n/a G.S. 150B-1(d)(4)
<u>Ophthalmic Instruments</u>	17	NCAC	07B	.5003*	n/a G.S. 150B-1(d)(4)

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

<u>Requirements for Licensing</u>	21	NCAC	56	.0501*	23:09 NCR
<u>Application Procedure: Individual</u>	21	NCAC	56	.0502	23:09 NCR
<u>Examinations</u>	21	NCAC	56	.0503*	23:09 NCR
<u>Expirations and Renewals of Certificates</u>	21	NCAC	56	.0505	23:09 NCR
<u>Application Procedure: Individual</u>	21	NCAC	56	.0602*	23:09 NCR
<u>Examinations</u>	21	NCAC	56	.0603	23:09 NCR
<u>Expirations and Renewals of Certificates</u>	21	NCAC	56	.0606	23:09 NCR
<u>Rules of Professional Conduct</u>	21	NCAC	56	.0701*	23:09 NCR
<u>Procedure</u>	21	NCAC	56	.0802*	23:09 NCR
<u>Annual Renewal</u>	21	NCAC	56	.0804	23:09 NCR
<u>Design</u>	21	NCAC	56	.1102	23:09 NCR
<u>Standard Certification Requirements</u>	21	NCAC	56	.1103	23:09 NCR
<u>Certification of Standard Design Plans</u>	21	NCAC	56	.1106	23:09 NCR

APPROVED RULES

<u>Improper Practice by a Licensee</u>	21	NCAC	56	.1301*	23:09 NCR
<u>Decision of Board</u>	21	NCAC	56	.1413	23:09 NCR
<u>Surveying Procedures</u>	21	NCAC	56	.1602*	23:09 NCR
<u>Classification of Boundary Surveys</u>	21	NCAC	56	.1603	23:09 NCR
<u>Mapping Requirements for Boundary Surveys</u>	21	NCAC	56	.1604	23:09 NCR
<u>Specifications for Topographic and Planimetric Mapping, I...</u>	21	NCAC	56	.1606	23:09 NCR
<u>Global Positioning Systems Surveys</u>	21	NCAC	56	.1607*	23:09 NCR
<u>Classification/Land Information System/Geographic Informa...</u>	21	NCAC	56	.1608*	23:09 NCR
<u>Definitions</u>	21	NCAC	56	.1702	23:09 NCR
<u>Requirements</u>	21	NCAC	56	.1703*	23:09 NCR
<u>Determination of Credit</u>	21	NCAC	56	.1705	23:09 NCR
<u>Recordkeeping</u>	21	NCAC	56	.1706*	23:09 NCR
<u>Exemptions</u>	21	NCAC	56	.1707*	23:09 NCR
<u>Comity/Out-of-Jurisdiction Resident</u>	21	NCAC	56	.1709	23:09 NCR
<u>Compliance</u>	21	NCAC	56	.1712	23:09 NCR
<u>Sponsors</u>	21	NCAC	56	.1713	23:09 NCR

REAL ESTATE COMMISSION

<u>Agency Agreements and Disclosure</u>	21	NCAC	58A	.0104*	23:14 NCR
<u>Advertising</u>	21	NCAC	58A	.0105	23:14 NCR
<u>Broker-In-Charge</u>	21	NCAC	58A	.0110*	23:14 NCR
<u>Offers and Sales Contracts</u>	21	NCAC	58A	.0112*	23:14 NCR
<u>Reporting Criminal Convictions and Disciplinary Actions</u>	21	NCAC	58A	.0113*	23:14 NCR
<u>Residential Property Disclosure Statement</u>	21	NCAC	58A	.0114	23:14 NCR
<u>Confidentiality of Examinations</u>	21	NCAC	58A	.0405*	23:14 NCR
<u>Business Entities</u>	21	NCAC	58A	.0502*	23:14 NCR
<u>Active and Inactive License Status</u>	21	NCAC	58A	.0504*	23:14 NCR
<u>Reinstatement of Expired License, Revoked, Surrendered or...</u>	21	NCAC	58A	.0505*	23:14 NCR
<u>Denial or Withdrawal of Postlicensing Education Credit</u>	21	NCAC	58A	.1904*	23:14 NCR
<u>School Name</u>	21	NCAC	58C	.0203	23:14 NCR
<u>Course Completion Standards</u>	21	NCAC	58C	.0304*	23:14 NCR
<u>Course Scheduling</u>	21	NCAC	58C	.0305*	23:14 NCR
<u>Course Completion Reporting</u>	21	NCAC	58C	.0309	23:14 NCR
<u>Notice of Scheduled Courses</u>	21	NCAC	58C	.0313	23:14 NCR
<u>Distance Education Courses</u>	21	NCAC	58E	.0310*	23:14 NCR
<u>Student Participation Standards</u>	21	NCAC	58E	.0511*	23:14 NCR
<u>Basic Requirement</u>	21	NCAC	58F	.0101	23:14 NCR
<u>Course Content</u>	21	NCAC	58F	.0102	23:14 NCR
<u>Course Sponsors and Instructors</u>	21	NCAC	58F	.0103	23:14 NCR
<u>Course Operational Requirements</u>	21	NCAC	58F	.0104	23:14 NCR
<u>Course Completion Reporting and Per Student Fee</u>	21	NCAC	58F	.0105	23:14 NCR
<u>Withdrawal of Sponsor and Instructor Approval</u>	21	NCAC	58F	.0106	23:14 NCR

COMMUNITY COLLEGES, BOARD OF

<u>Intercollegiate Athletics</u>	23	NCAC	02C	.0110*	23:04 NCR
<u>Tuition and Fees for Curriculum Programs</u>	23	NCAC	02D	.0202*	23:02 NCR
<u>Operating Budget Requests: Distribution of Funds</u>	23	NCAC	02D	.0301	23:10 NCR
<u>Budget FTE Funding</u>	23	NCAC	02D	.0326	23:10 NCR
<u>Reporting Student Membership Hours to the Department</u>	23	NCAC	02D	.0327	23:10 NCR
<u>Courses and Standards for Curriculum Programs</u>	23	NCAC	02E	.0204*	23:14 NCR
<u>Program Review</u>	23	NCAC	02E	.0205	23:10 NCR

STATE PERSONNEL COMMISSION

<u>Types of Appointments and Duration</u>	25	NCAC	01I	.2002*	23:10 NCR
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ADMINISTRATIVE HEARINGS, OFFICE OF

<u>Electronic Filing</u>	26	NCAC	02C	.0308*	G.S. 150B-21.5(a)(4)
<u>General</u>	26	NCAC	03	.0101*	G.S. 150B-21.5(a)(4)
<u>Rights and Responsibilities of Parties</u>	26	NCAC	03	.0120*	23:12 NCR

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

ENVIRONMENTAL MANAGEMENT COMMISSION

<u>French Broad River Basin</u>	15A	NCAC	02B	.0304*	23:06 NCR
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WILDLIFE RESOURCES COMMISSION

<u>Wildlife Taken for Depredations or Accidentally</u>	15A	NCAC	10B	.0106*	23:11 NCR
<u>Permitted Archery Equipment</u>	15A	NCAC	10B	.0116	23:11 NCR
<u>Prohibited Taking and Manner of Take</u>	15A	NCAC	10B	.0201*	23:11 NCR
<u>Deer (White Tailed)</u>	15A	NCAC	10B	.0203*	23:11 NCR
<u>Trappers and Hunters</u>	15A	NCAC	10B	.0404	23:11 NCR
<u>Sale of Live Foxes and Coyotes to Controlled Fox Hunting ...</u>	15A	NCAC	10B	.0409	23:11 NCR

TITLE 01 – DEPARTMENT OF ADMINISTRATION

01 NCAC 44A .0101 SCOPE

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

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

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
- (b) The HUB office shall notify the business in writing when the application is denied.
- (c) The business may reapply for HUB Certification no earlier than 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.

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

01 NCAC 44A .0401 CHALLENGE INITIATION

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

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

01 NCAC 44A .0404 HUB STATUS DURING CHALLENGE

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

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

01 NCAC 44A .0501 REASONS FOR REVOCATION

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.

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

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 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 no earlier than 12 months from the date of the revocation notice.

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

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 15 business days of the date of the denial or revocation notice.

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

01 NCAC 44A .0605 STATUS PENDING REVIEW

The HUB Certification status remains in effect pending a review.

History Note: Authority G.S. 143-48.4; 143-128.4; Eff. March 1, 2008; Amended Eff. May 1, 2009.

TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 09L .1002 GENERAL REQUIREMENTS

(a) All agricultural aircraft operations in North Carolina shall comply with the Federal Occupational Safety and Health Act of 1971 (OSHA), the North Carolina Occupational Safety and Health Law, all regulations promulgated thereunder and the Federal Aviation Regulations part 137. In any case of conflict, a provision of the aforementioned authorities takes precedence over any of these Rules.

(b) Each aerial application business shall have a licensed contractor. The contractor shall be responsible for the compliance of the business with the North Carolina Pesticide Law of 1971 and all regulations promulgated thereunder except where the responsibility is specifically designated to another person(s) by these Rules.

(c) All agricultural aircraft operations (pilot or contractor) shall keep a written record to be completed within 72 hours after each application. This requirement must be fulfilled as soon as requested by an employee of the Pesticide Section for the purposes of a pesticide incident investigation. For pesticides covered under the Worker Protection Standards for Agricultural Pesticides, 02 NCAC 09L .1800, such records must be completed in accordance with 02 NCAC 09L .1807(b). The record shall show the following:

- (1) name of contractor;
- (2) name and address of the person for whom the pesticide was applied;
- (3) identification of farm or land sites treated with pesticide(s);
- (4) name of crop which was treated;
- (5) total number of acres treated;
- (6) the year, month, date, and the specific time of day when each pesticide application was completed;
- (7) the brand name of the pesticide(s) and EPA registration number;
- (8) amount of formulated product or active material applied per acre (must specify);
- (9) total gallons or pounds per acre of the final tank mix applied per acre;
- (10) name of pilot;
- (11) signature of person completing this record.

- (d) Each day of application shall be recorded as a separate record.
- (e) The pilot shall, prior to application, learn and confirm:
 - (1) the boundaries and exact location of the target area(s);
 - (2) the identity of nontarget areas and safety hazards located on or adjacent to the target areas.
- (f) Spray and spreading equipment shall be rinsed after each agricultural aircraft operation except when the next agricultural aircraft operation will be made using the same pesticide, or if another pesticide, one which by its manufacturer's recommendations is compatible with that previously in the equipment, and will not result in any adverse effects or illegal residues. Rinsing shall be conducted in an area where an environmental hazard will not be created by the drainage or disposal of waste materials and conducted with methods which will not create an environmental or human hazard.
- (g) During application, the flow and mixture of the pesticide(s) shall be uniform. Pilots and contractors shall utilize equipment which will maintain a uniform mixture and flow during application.
- (h) Pilots and contractors shall use and operate, in any agricultural aircraft operation, aircraft equipped with spray or spreading equipment suited, according to its manufacturer's recommendations for the pesticide(s) to be applied. All aerial spray or spreading equipment shall be free of leaks and shall have a positive shutoff system to prevent leaking and dissemination of pesticides on any nontarget areas over which the flight is made. Such equipment shall not allow spillage, dripping and backflow or create a hazard from vapors or drift.
- (i) The loading area shall be kept reasonably free of pesticide contamination.
- (j) No pesticide(s) shall be applied by an aerial applicator while any persons other than those assisting in the application are in the target area.
- (k) The shape of the tank or hopper of the spray or spreading equipment shall be such as to allow complete drainage during flight and on ground.
- (l) The contractor or pilot shall immediately notify the Secretary of the Board, or designated alternate, of any emergency or accidental release of pesticide(s) from the application or auxiliary equipment. They shall provide the following information:
 - (1) the name of the pilot;
 - (2) the contractor involved;
 - (3) the name of the property owner or operator;
 - (4) the location of the incident;
 - (5) the name of the pesticide;
 - (6) the estimated amount of pesticide involved;
 - (7) the estimated size of the area that received the spill;
 - (8) the description of what is located within 300 feet from the edge of the spill in all directions;
 - (9) the number of humans or animals known to have been contaminated;
 - (10) the weather conditions at the site of the emergency or accidental release of pesticide(s).

History Note: Authority G.S. 143-458; 143-463; 143-466; Eff. July 2, 1976; Amended Eff. May 1, 2009; February 1, 1989; January 1, 1985; August 1, 1982.

02 NCAC 09L.1807 SPECIFIC INFORMATION ABOUT APPLICATIONS

(a) Concerning application information requirements contained in 40 CFR Sections 170.122 and 170.222 the following is also required to be completed by the agricultural employer:

- (1) In addition to the requirements of Sections 170.122(c)(3), and 170.222(c)(3), the specific time of day when each pesticide application was completed must be recorded immediately upon completion of the application. Each day of the application shall be recorded as a separate record.
- (2) After the application information referenced in (a)(1) of this Rule and the other information in Sections 170.122(c) and 170.222(c) has been displayed for the required period of time in Section 170.122(b) and 170.222(b), the agricultural employer shall maintain the information for a period of two years from the specific time of day when each pesticide application was completed. Such information shall be available for inspection and copying by the Board or its agents upon their request.

(b) In addition to information contained in Section 170.224(b), the handler employer must make the agricultural owner aware of the specific time of day when each pesticide application was completed. The agricultural employer shall display the information immediately and shall make it part of the record required to be maintained in Paragraph (a)(1) and (2) of this Rule.

History Note: Authority G.S. 143-466(a); Eff. May 1, 2009.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 27G .0701	GENERAL
10A NCAC 27G .0702	ACCREDITATION REVIEW
10A NCAC 27G .0703	ACCREDITATION OF THE AREA PROGRAM
10A NCAC 27G .0704	DENIAL OR REVOCATION OF ACCREDITATION
10A NCAC 27G .0705	INTERIM ACCREDITATION FOR NEW SERVICES
10A NCAC 27G .0706	RECIPROCITY
10A NCAC 27G .0707	PURCHASE OF SERVICE AND CAPITATION CONTRACTS

History Note: Authority G.S. 122C-112; 122C-141(b); 122C-142(a); 122C-191(d); Eff. May 1, 1996;

Repealed Eff. May 1, 2009.

Eff. October 1, 1983;

Amended Eff. July 1, 1984;

Repealed Eff. May 1, 2009.

10A NCAC 29D .0301 SCOPE
10A NCAC 29D .0302 DEFINITION
10A NCAC 29D .0303 AREA AUTHORITIES AND CATCHMENT

10A NCAC 29D .0304 CHANGE OF CATCHMENT AREAS

History Note: Authority G.S. 122C-3; 122C-112; 143B-147; Eff. July 1, 1984;

Repealed Eff. May 1, 2009.

History Note: Authority G.S. 122C-3; 122C-112; 122C-115; 122C-116; 122C-117; 122C-118; 122C-132; 143B-147;

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 09B .0205 BASIC LAW ENFORCEMENT TRAINING

(a) The basic training course for law enforcement officers consists of instruction designed to provide the trainee with the skills and knowledge to perform those tasks essential to function in law enforcement.

(b) The course entitled "Basic Law Enforcement Training" shall consist of a minimum of 618 hours of instruction and shall include the following identified topical areas and minimum instructional hours for each:

- | | | |
|-----|--|-----------|
| (1) | LEGAL UNIT | |
| | (A) Motor Vehicle Laws | 20 Hours |
| | (B) Preparing for Court and Testifying in Court | 12 Hours |
| | (C) Elements of Criminal Law | 24 Hours |
| | (D) Juvenile Laws and Procedures | 10 Hours |
| | (E) Arrest, Search and Seizure/Constitutional Law | 28 Hours |
| | (F) ABC Laws and Procedures | 4 Hours |
| | UNIT TOTAL | 98 Hours |
| (2) | PATROL DUTIES UNIT | |
| | (A) Techniques of Traffic Law Enforcement | 24 Hours |
| | (B) Explosives and Hazardous Materials Emergencies | 12 Hours |
| | (C) Traffic Crash Investigation | 20 Hours |
| | (D) In-Custody Transportation | 8 Hours |
| | (E) Crowd Management | 12 Hours |
| | (F) Patrol Techniques | 26 Hours |
| | (G) Law Enforcement Communication and Information Systems | 8 Hours |
| | (H) Anti-Terrorism | 4 Hours |
| | (I) Rapid Deployment | 8 Hours |
| | UNIT TOTAL | 122 Hours |
| (3) | LAW ENFORCEMENT COMMUNICATION UNIT | |
| | (A) Dealing with Victims and the Public | 10 Hours |
| | (B) Domestic Violence Response | 12 Hours |
| | (C) Ethics for Professional Law Enforcement | 4 Hours |
| | (D) Individuals with Mental Illness and Mental Retardation | 8 Hours |
| | (E) Crime Prevention Techniques | 6 Hours |
| | (F) Communication Skills for Law Enforcement Officers | 8 Hours |
| | UNIT TOTAL | 48 Hours |
| (4) | INVESTIGATION UNIT | |
| | (A) Fingerprinting and Photographing Arrestee | 6 Hours |
| | (B) Field Note-taking and Report Writing | 12 Hours |
| | (C) Criminal Investigation | 34 Hours |
| | (D) Interviews: Field and In-Custody | 16 Hours |
| | (E) Controlled Substances | 12 Hours |
| | UNIT TOTAL | 80 Hours |
| (5) | PRACTICAL APPLICATION UNIT | |
| | (A) First Responder | 32 Hours |

	(B)	Firearms	48 Hours
	(C)	Law Enforcement Driver Training	40 Hours
	(D)	Physical Fitness (classroom instruction)	8 Hours
	(E)	Fitness Assessment and Testing	12 Hours
	(F)	Physical Exercise 1 hour daily, 3 days a week	34 Hours
	(G)	Subject Control Arrest Techniques	40 Hours
		UNIT TOTAL	214 Hours
(6)		SHERIFF-SPECIFIC UNIT	
	(A)	Civil Process	24 Hours
	(B)	Sheriffs' Responsibilities: Detention Duties	4 Hours
	(C)	Sheriffs' Responsibilities: Court Duties	6 Hours
		UNIT TOTAL	34 Hours
(7)		COURSE ORIENTATION	2 Hours
(8)		TESTING	20 Hours
		TOTAL COURSE HOURS	618 Hours

(c) The "Basic Law Enforcement Training Manual" as published by the North Carolina Justice Academy shall be used as the basic curriculum for this basic training course for law enforcement officers as administered by the Commission. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
114 West Edenton Street
Old Education Building
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be obtained from the Academy at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

(d) The "Basic Law Enforcement Training Course Management Guide" as published by the North Carolina Justice Academy shall be used by School Directors in planning, implementing and delivering basic training courses. Each School Director shall be issued a copy of the guide at the time of certification at no cost to the certified school. The public may obtain copies of this guide from the Justice Academy.

History Note: Authority G.S. 17C-6; 17C-10; Eff. January 1, 1981; Temporary Amendment Eff. December 14, 1983 for a period of 120 days to expire on April 12, 1984; Amended Eff. July 1, 2009; January 1, 2006; August 1, 2002; August 1, 2000; November 1, 1998; July 1, 1997; January 1, 1995; February 1, 1991; July 1, 1989.

12 NCAC 09C .0306 LATERAL TRANSFER OF LAW ENFORCEMENT OFFICERS

(a) A law enforcement officer with general certification from either the Criminal Justice Education and Training Standards Commission or the Sheriffs' Education and Training Standards Commission may transfer from one law enforcement agency to

another law enforcement agency with less than a 12 month break in law enforcement service. Prior to employing the officer, the employing agency shall:

- (1) verify the certification of the officer with the Criminal Justice Standards Division or the Sheriffs' Standards Division.
 - (2) submit a new fingerprint check to the North Carolina State Bureau of Investigation, in compliance with the requirements set forth in 12 NCAC 09B .0103(a) and (b), in the same manner as prescribed for non-certified new applicants. No certification shall be transferred if the holder has been convicted since initial certification of any offense for which revocation or suspension of certification is authorized.
 - (3) advise the officer that he will be serving under a probationary appointment with the agency for one year.
 - (4) notify the Commission, by submitting a Report of Appointment, that the officer is being employed and stating the date on which employment will commence.
- (b) Prior to transfer of certification, the law enforcement officer shall:
- (1) complete a Medical History Statement Form within one year prior to the transfer to the employing agency;
 - (2) submit to examination by a physician licensed to practice medicine in North Carolina in the same manner prescribed for non-certified new applicants in 12 NCAC 09B .0104 within one year prior to the transfer to the employing agency;
 - (3) submit results of the physical examination to the employing agency for placement in the officer's permanent personnel file;
 - (4) produce a negative result on a drug screen administered according to the specifications outlined in 12 NCAC 09B .0101(5); and
 - (5) either:
 - (A) submit a copy of the Commission's annual in-service training report form

to the employing agency for placement in the officer's permanent personnel file when the duty and off duty weapon(s) remain the same as those previously used to qualify. Such in-service training compliance must have occurred within the 12 month period preceding transfer; or

(B) satisfactorily complete the employing agency's in-service firearms training program as prescribed in 12 NCAC 09E .0105 and .0106.

(c) Officers previously certified who were not previously required to meet the educational or basic training requirements are not required to meet such requirements when laterally transferring to another agency with less than a 12-month break in law enforcement service.

History Note: Authority G.S. 17C-6; 17C-10;
Eff. January 1, 1981;

Amended Eff. May 1, 2009; July 1, 1990; March 1, 1990; July 1, 1989; July 1, 1982.

12 NCAC 09C .0310 AGENCY REPORTING OF DRUG SCREENING RESULTS

(a) Each agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants and lateral transfers unless the positive result has been explained to the satisfaction of the agency's medical review officer who shall be a licensed physician.

(b) Each agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal unless the positive result has been explained to the satisfaction of the agency's medical review officer to the extent the drug screen conducted conforms to the specifications of 12 NCAC 09B .0101(5)(a), (b), (c), (d), and (f).

(c) For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in 12 NCAC 09B .0101(5)(d).

(d) All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain the individual's name, date of birth and either the date the test was administered or the date of the refusal.

History Note: Authority G.S. 17C-6; 17C-10;
Eff. July 1, 1990;
Amended Eff. May 1, 2009.

12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS

(a) Each qualified retired law enforcement officer must qualify with each handgun he/she will carry in accordance with the standards outlined in 12 NCAC 09E .0105(1) and 12 NCAC 09E

.0106(a), (c), (e), (f) and (g), which shall be incorporated in classroom instruction and firearms qualification on the firing range utilizing the course of fire from the "Specialized Firearms Instructor Training Manual."

(b) In addition to the standards set out in Rules 09E .0105 and .0106, each qualified retired law enforcement officer shall also receive a minimum of two hours of instruction on the North Carolina laws of self defense and the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private persons.

(c) Qualified retired law enforcement officers shall qualify with each handgun that will be carried concealed at least once every 12 months. For the purpose of this Rule, handgun shall include semi-automatic pistols or revolvers.

History Note: Authority G.S. 17C-6; 14-415.10; 14-415.25; 14-415.2;
Eff. May 1, 2009.

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 07F .0106 TOXIC AND HAZARDOUS SUBSTANCES

History Note: Authority G.S. 95-131; 95-133; 150B-21.6;
Recodified from 13 NCAC 07F .0101(4) *Eff.* December 17, 2007;
Repealed Eff. May 1, 2009.

13 NCAC 07F .0903 DEFINITIONS

In addition to the definitions set forth in 29 CFR Part 1910 and 29 CFR Part 1926, the following definitions apply throughout this Section:

- (1) Assembly/Disassembly means the assembly and disassembly of equipment covered under this Section. With regard to tower cranes, "erecting and climbing" replaces the term "assembly," and "dismantling" replaces the term "disassembly."
- (2) Assembly/Disassembly Supervisor ("A/D Supervisor") means an individual who meets this Section's requirements for an A/D supervisor, irrespective of the person's formal job title or whether the person is non-management or management personnel.
- (3) Attachment means any device that expands the range or tasks that can be done by the equipment. Examples include an auger, drill, magnet, pile-driver, and boom-attached personnel platform.
- (4) Audible Signal means a signal made by a distinct sound or series of sounds. Examples include sounds made by a bell, horn, or whistle.
- (5) Bird Caging means the twisting of fiber or wire rope in an isolated area in the opposite

- direction of the rope lay, thereby causing it to take on the appearance of a bird cage.
- (6) Blocking (also referred to as "cribbing") means wood or other material used to support equipment or a component and distribute loads to the ground. Blocking is typically used to support latticed boom sections during assembly/disassembly and under outrigger floats.
- (7) Boatwain's Chair means a single-point adjustable suspension scaffold consisting of a seat or sling (which may be incorporated into a full body harness) designed to support one employee in a sitting position.
- (8) Boom (equipment other than tower crane) means an inclined spar, strut, or other structural member which supports the upper hoisting tackle on a crane or derrick. Typically, the length and vertical angle of the boom can be varied to achieve increased height or height and reach when lifting loads. Booms can usually be grouped into general categories of hydraulically extendible, cantilevered type, latticed section, cable supported type or articulating type.
- (9) Boom: if the "boom" (i.e., principle horizontal structure) is fixed, it is referred to as a jib; if it is moveable up and down, it is referred to as a boom.
- (10) Boom Angle Indicator means a device which measures the angle of the boom relative to horizontal.
- (11) Boom Hoist Limiting Device means a device that disengages boom hoist power when the boom reaches a predetermined operating angle. It also sets brakes or closes valves to prevent the boom from lowering after power is disengaged. This includes a boom hoist disengaging device, boom hoist shut-off, boom hoist disconnect, boom hoist hydraulic relief, boom hoist kick-outs, automatic boom stop device, or derricking limiter.
- (12) Boom Length Indicator means the length of the permanent part of the boom (such as ruled markings on the boom) or, as in some computerized systems, the length of the boom with extensions/attachments.
- (13) Boom Stop means a device that restricts the boom from moving a certain maximum angle and toppling over backward. This includes boom stops, belly straps with struts/standoff, telescoping boom stops, attachment boom stops, and backstops.
- (14) Boom Suspension Systems means a system of pendants, running ropes, sheaves, and other hardware which supports the boom tip and controls the boom angle.
- (15) Center of Gravity means the point in an object around which its weight is evenly distributed, such that if a support is placed under that point, the object could balance on the support.
- (16) Certified Welder means a welder who meets certification requirements applicable to the task being performed, in accordance with the American Welding Society or the American Society of Mechanical Engineers.
- (17) Climbing means the process in which a tower crane is raised to a new working height, either by adding additional tower sections to the top of the crane (top climbing), or by a system in which the entire crane is raised inside the structure (inside climbing).
- (18) Come-A-Long means a mechanical device typically consisting of a chain or cable attached at each end that is use to facilitate movement of materials through leverage.
- (19) Competent Person means a person who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization from his employer to take prompt corrective measures to eliminate them.
- (20) Controlled Load Lowering means lowering a load by means of a mechanical hoist drum device that allows a hoisted load to be lowered with maximum control using the gear train or hydraulic components of the hoist mechanism. Controlled load lowering requires the use of the hoist drive motor, rather than the load hoist brake, to lower the load.
- (21) Controlling Entity means a prime contractor, general contractor, construction manager or any other legal entity which has the overall responsibility for the construction of the projects, including its planning, quality and completion.
- (22) Counterweight means a weight used to supplement the weight of equipment in providing stability for lifting loads by counterbalancing those loads.
- (23) Crane Level Indicator means a device for determining true horizontal.
- (24) Crane, Articulating means a crane whose boom consists of a series of folding, pin-connected structural members, typically manipulated to extend or retract by power from hydraulic cylinders.
- (25) Crane, Assist means a crane used to assist in assembling or disassembling a crane.
- (26) Crane, Crawler means equipment that has a type of base mounting which incorporates a continuous belt of sprocket driven track.
- (27) Crane, Floating (or Floating Derrick) means equipment designed by the manufacturer (or employer) for marine use by permanent attachment to a barge, pontoons, vessel or other means of flotation.

- (28) Crane, Land (or Land Derrick) means equipment not originally designed by the manufacturer for marine use by permanent attachment to barges, pontoons, vessels, or other means of flotation.
- (29) Crane, Locomotive means a crane mounted on a base or car equipped for travel on a railroad track.
- (30) Crane, Mobile means a lifting device incorporating a cable suspended latticed boom or hydraulic telescopic boom designed to be moved between operating locations by transport over the road. These are referred to in Europe as a crane mounted on a truck carrier.
- (31) Crane, Overhead and Gantry includes overhead/bridge cranes, semigantry, cantilever gantry, wall cranes, storage bridge cranes, launching gantry cranes, and similar equipment, irrespective of whether it travels on tracks, wheels, or other means.
- (32) Crane, Portal means a type of crane consisting of a rotating upperstructure, hoist machinery, and boom mounted on top of a structural gantry which may be fixed in one location or have travel capability. The gantry legs or columns usually have portal openings in between to allow passage of traffic beneath the gantry.
- (33) Crane, Side-Boom means a track-type or wheel-type tractor having a boom mounted on the side of the tractor, used for lifting, lowering, or transporting a load suspended on the load hook. The boom or hook can be lifted or lowered in a vertical direction only.
- (34) Crane, Tower means a type of lifting structure which utilizes a vertical mast or tower to support a working boom (jib) suspended from the working boom. While the working boom may be fixed horizontally or have luffing capability, it can always rotate about the tower center to swing loads. The tower base may be fixed in one location or ballasted and moveable between locations.
- (35) Critical lift means a crane lifting operation involving an exceptional level of risk due to factors such as load weight, lifting height, procedural complications, or proximity to situational hazards. Critical lifts are often identified by conditions exceeding a specified percentage of the crane's rated capacity (75%), however, any more complex issues may be involved.
- (36) Crossover Points means the locations on a wire rope which is spooled on a drum where one layer of rope climbs up on and crosses over the previous layer. This takes place at each flange of the drum as the rope is spooled on the drum, reaches the flange, and begins to wrap back in the opposite direction.
- (37) Dedicated Channel means a line of communication assigned by the employer who controls the communication system to only one signal person and crane/derrick or to a coordinated group of cranes/derricks/signal person(s).
- (38) Dedicated Pile-Driver means a machine that is designed to function exclusively as a pile-driver. These machines typically have the ability to both hoist the material that will be pile-driven and to pile-drive that material.
- (39) Dedicated Spotter (power lines) means a person who meets the requirements of 13 NCAC 07F .0905 (signal person qualifications) and whose sole responsibility is to watch the separation between the power line and the equipment, the load line and the load (including rigging and lifting accessories), and ensure through communication with the operator that the applicable minimum approach distance is not breached.
- (40) Directly Under the Load means a part or all of an employee is directly beneath the load.
- (41) Dismantling includes partial dismantling (such as dismantling to shorten a boom or substitute a different component).
- (42) Drum Rotation Indicator means a device on a crane or hoist which indicates in which direction and at what relative speed a particular hoist drum is turning.
- (43) Electrical Contact means when a person, object, or equipment makes contact or comes in close proximity with an energized conductor or equipment that allows the passage of current.
- (44) Employer-Made Equipment means equipment designed and built by an employer for its own use.
- (45) Encroachment means when any part of the crane, load line or load (including rigging and lifting accessories) breaches a minimum clearance distance that this Section requires to be maintained from a power line.
- (46) Equipment Criteria means instructions, recommendations, limitations and specifications.
- (47) Fall Protection Equipment means guardrail systems, safety net systems, personal fall arrest systems, positioning device systems or fall restraint systems.
- (48) Fall Restraint System means a fall protection system that prevents the user from falling any distance. The system is comprised of either a body belt or body harness, along with an anchorage, connectors and other necessary equipment. The other components typically

- include a lanyard, and may also include a lifeline and other devices.
- (49) Fall Zone means the area (including the area directly beneath the load) in which it is reasonably foreseeable that partially or completely suspended materials could fall in the event of an accident.
- (50) Flange Points means a point of contact between rope and drum flange where the rope changes layers.
- (51) Free Fall (of the load line) means when only the brake is used to regulate the descent of the load line (the drive mechanism is not used to drive the load down faster or retard its lowering).
- (52) Free Surface Effect means uncontrolled transverse movement of liquids in compartments which reduce a vessel's transverse stability.
- (53) Functional testing means the testing of a crane, typically done with a light load or no load, to verify the proper operation of a crane's primary function, i.e. hoisting, braking, booming, swinging, etc. A functional test is contrasted to testing the crane's structural integrity with heavy loads.
- (54) Hoist means a mechanical device for lifting and lowering loads by winding rope onto or off of a drum.
- (55) Hoisting means the act of raising, lowering or otherwise moving a load in the air with equipment covered by this Section. As used in this Section, "hoisting" can be done by means other than wire rope/hoist drum equipment.
- (56) Insulating Link/Device means an insulating device approved by a Nationally Recognized Testing Laboratory, as that term is defined in 29 CFR 1910.7(b).
- (57) Jib Stop (a.k.a. Jib Backstop) is similar to a boom stop but is for a fixed or luffing jib.
- (58) List means the angle of inclination about the longitudinal axis of a barge, pontoons, vessel or other means of flotation.
- (59) Load means the weight of the object being lifted or lowered, including the weight of the load-attaching equipment such as the load block, ropes, slings, shackles, and any other ancillary attachment.
- (60) Load Moment Indicator (also referred to as Rated Capacity Indicator) means a system which aids the equipment operator by sensing the overturning moment on the equipment, i.e. load X radius. It compares this lifting condition to the equipment's rated capacity, and indicates to the operator the percentage of capacity at which the equipment is working. Lights, bells, or buzzers may be incorporated as a warning of an approaching overload condition.
- (61) Load Moment Limiter (also referred to as Rated Capacity Limiter) means a system which aids the equipment operator by sensing the overturning moment on the equipment, i.e. load X radius. It compares this lifting condition to the equipment's rated capacity, and when the rated capacity is reached, it shuts off power to those equipment functions which can increase the severity of loading on the equipment, e.g., hoisting, telescoping out, or luffing out. Typically, those functions which decrease the severity of loading on the equipment remain operational, e.g., lowering, telescoping in, or luffing in.
- (62) Luffing Jib Limiting Device is similar to a boom hoist limiting device, except that it limits the movement of the luffing jib.
- (63) Marine Hoisted Personnel Transfer Device means a device, such as a "transfer net," that is designed to protect the employees being hoisted during a marine transfer and to facilitate rapid entry into and exit from the device. Such devices do not include boatswain's chairs when hoisted by equipment covered by this Section.
- (64) Marine Worksite means a construction worksite located in, on or above the water.
- (65) Moving Point-To-Point means the times during which an employee is in the process of going to or from a work station.
- (66) Multi-Purpose Machine means a machine that is designed to be configured in various ways, at least one of which allows it to hoist (by means of a winch or hook) and horizontally move a suspended load. For example, a machine that can rotate and can be configured with removable tongs (for use as a forklift) or with a winch pack, a jib with a hook at the end, or a jib used in conjunction with a winch. When configured with the tongs, it is not covered by this Section. When configured with a winch pack, a jib with a hook at the end, or a jib used in conjunction with a winch, it is covered by this Section.
- (67) Nationally Recognized Accrediting Agency means an organization that is accredited by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) to establish standards for and assess the formal activities of testing organizations applying for or continuing their accreditation.
- (68) Nonconductive means that, because of the nature and condition of the materials, used, and the conditions of use (including environmental conditions and condition of the material), the object in question has the property of not becoming energized (that is, it has high dielectric properties offering a high

- resistance to the passage of current under the conditions of use).
- (69) Operational Aids means devices that assist the operator in the safe operation of the crane by providing information or automatically taking control of a crane function. These include the devices listed in 13 NCAC 07F .0917 ("listed operational aids").
- (70) Operational Controls means levers, switches, pedals and other devices for controlling equipment operation.
- (71) Pendants includes both wire and bar types. Wire type pendants mean a fixed length of wire rope with mechanical fittings at both ends for pinning segments of wire rope together. Bar type pendants mean that instead of wire rope, a bar is used. Pendants are typically used in a latticed boom crane system to easily change the length of the boom suspension system without completely changing the rope on the drum when the boom length is increased or decreased.
- (72) Personal Fall Arrest System means a system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, and a body harness and may include a lanyard, deceleration device, lifeline, or a combination of these.
- (73) Power Lines means electrical distribution and electrical transmission lines.
- (74) Procedures include instructions, diagrams, recommendations, warnings, specifications, protocols, and limitations.
- (75) Proximity Alarm means a device that provides a warning of proximity to a power line that has been approved by a Nationally Recognized Testing Laboratory, as that term is defined in 29 CFR 1910.7(b).
- (76) Qualified Engineer means an engineer that is licensed as a professional engineer with the North Carolina Board of Examiners for Engineers and Surveyors.
- (77) Qualified Evaluator (not a third party) means a person employed by the signal person's employer who has demonstrated to his employer that he/she is competent in accurately assessing whether individuals meet the Qualification Requirements in this Section for a signal person.
- (78) Qualified Evaluator (third party) means an independent entity that has demonstrated to the employer its competence to accurately assess whether individuals meet the Qualification Requirements in this Section for a signal person.
- (79) Qualified Person means a person who, by possession of a degree, certificate, or professional standing, or who by knowledge, training and experience, successfully demonstrated to his employer an ability to solve/resolve problems relating to the subject matter, the work, or the project.
- (80) Qualified Rigger means a rigger who meets the criteria for a qualified person.
- (81) Range Control Warning Device means a device that can be set by an equipment operator to warn that the boom or jib tip is at a plane or multiple planes.
- (82) Rated Capacity means the maximum working load permitted by the manufacturer under specified working conditions. Such working conditions typically include a specific combination of factors such as equipment configuration, radii, boom length, and other parameters of use.
- (83) Repetitive Pickup Points means when an operation involves the rope being used on a single layer and being spooled repetitively over a portion of the drum.
- (84) Rotation Resistant Rope means a type of wire rope construction which reduces the tendency of a rope to rotate about its axis under load. Usually, this consists of an inner system of core strands laid in one direction covered by an outer system of strands laid in the opposite direction.
- (85) Running Wire Rope means a wire rope that moves over sheaves or drums.
- (86) Runway means a firm, level surface designed, prepared and designated as a path of travel for the weight and configuration of the crane being used to lift and travel with the crane suspended platform. An existing surface may be used as long as it meets these criteria.
- (87) Special Hazard Warnings means warnings of site-specific hazards (for example, proximity of power lines).
- (88) Stability (flotation device) means the tendency of a barge, pontoons, vessel or other means of flotation to return to an upright position after having been inclined by an external force.
- (89) Standard Method means the hand signals established in ASME B30.3-2004 and ASME B30.5-2004.
- (90) Standing Wire Rope means a supporting wire rope which maintains a constant distance between the points of attachment to the two components connected by the wire rope.
- (91) Tagline means a rope (usually fiber) attached to a lifted load for purposes of controlling load spinning and pendular motions or used to stabilize a bucket or magnet during material handling operations.
- (92) Tender means an individual responsible for monitoring and communicating with a diver.
- (93) Tilt Up or Tilt Down Operation means raising or lowering a load from the horizontal to vertical or vertical to horizontal.

- (94) Travel Bogie (also referred to as Bogie) means an assembly of two or more axles arranged to permit vertical wheel displacement and equalize the loading on the wheels.
- (95) Trim means the angle of inclination about the transverse axis of a barge, pontoons, vessel or other means of flotation.
- (96) Two Blocking means a condition in which a component that is uppermost on the hoist line such as the load block, hook block, overhaul ball, or similar component, comes in contact with the boom tip, fixed upper block or similar component. This binds the system and continued application of power can cause failure of the hoist rope or other component.
- (97) Unavailable Procedures means procedures that are no longer available from the manufacturer, or have never been available from the manufacturer.
- (98) Upperworks (also referred to as Superstructure or Upperstructure) means the revolving frame of equipment on which the engine and operating machinery are mounted along with the operator's cab. The counterweight is typically supported on the rear of the upperstructure and the boom or other front end attachment is mounted on the front.

*History Note: Authority G.S. 95-131;
Eff. July 1, 2009.*

13 NCAC 07F .0904 OPERATOR QUALIFICATION AND CERTIFICATION

(a) The employer shall ensure that, prior to operating any equipment covered under 13 NCAC 07F .0901, the operator is either qualified or certified to operate the equipment in accordance with one of the Options in Paragraphs (b) through (e) of this Rule, or is operating the equipment during a training period in accordance with Paragraph (f) of this Rule. Exceptions: operator qualification or certification under this Rule is not required for operators of equipment with a rated hoisting/lifting capacity of 2,000 pounds or less (see 13 NCAC 07F .0910), derricks (see 13 NCAC 07F .0922), or sideboom cranes (see 13 NCAC 07F .0926).

(b) Option (1): Certification by an accredited crane/derrick operator testing organization.

- (1) For a testing organization to be considered accredited to certify operators under this Section, it shall:
 - (A) Be accredited by a nationally recognized accrediting agency based on that agency's determination that industry recognized criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment and personnel have been met.
 - (B) Administer written and practical tests that:

- (i) Assess the operator applicant regarding the knowledge and skills listed in Subparagraphs (i)(1) and (i)(2) of this Rule.
 - (ii) Provide different levels of certification based on equipment capacity and type.
- (C) Have procedures for operators to re-apply and be re-tested in the event an operator applicant fails a test or is decertified.
- (D) Have testing procedures for re-certification designed to ensure that the operator continues to meet the technical knowledge and skills requirements in Subparagraphs (i)(1) and (i)(2) of this Rule.
- (E) Have its accreditation reviewed by the national recognized accrediting agency at least every three years.
- (2) A certification issued under this Option is:
 - (A) Portable.
 - (B) Valid for five years.
- (c) Option (2): Qualification by an audited employer program. The employer's qualification of its employee shall meet the following requirements:
 - (1) The employee shall pass written and practical tests either:
 - (A) Developed by an accredited crane/derrick operator testing organization (see Paragraph (b) of this Rule), or
 - (B) Approved by an auditor in accordance with the following requirements:
 - (i) The auditor is certified to evaluate such tests by an accredited crane/derrick operator testing organization (see Paragraph (b) of this Rule).
 - (ii) The auditor is not an employee of the employer.
 - (iii) The approval is based on the auditor's determination that the written and practical tests meet test development criteria approved by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI) and are valid and reliable in assessing the operator applicants regarding the knowledge and skills listed in

- Subparagraphs (i)(1) and (i)(2) of this Rule.
- (2) Administration of tests.
 - (A) The written and practical tests shall be administered under circumstances determined by the auditor as meeting test administration standards approved by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI).
 - (B) The auditor shall be certified to evaluate the administration of the written and practical tests by an accredited crane/derrick operator testing organization (see Paragraph (b) of this Rule).
 - (C) The audit shall be conducted in accordance with Generally Accepted Auditing Standards (GAAS) established by the American Institute of Certified Public Accountants (AICPA).
 - (3) The employer program shall be audited within 3 months of the beginning of the program and every three years thereafter.
 - (4) The employer program shall have testing procedures for re-qualification designed to ensure that the operator continues to meet the technical knowledge and skills requirements in Subparagraphs (i)(1) and (i)(2) of this Rule. The re-qualification procedures shall be audited in accordance with Subparagraphs (c)(1) and (c)(2) of this Rule.
 - (5) Deficiencies. If the auditor determines that there is a deficiency in the program, the employer shall ensure that:
 - (A) No operator is qualified until the auditor confirms that the deficiency has been corrected.
 - (B) The program is audited again within 180 days of the confirmation that the deficiency was corrected.
 - (C) The auditor files a documented report of the deficiency to the Deputy Commissioner for Occupational Safety and Health or his designee within 15 days of the auditor's determination that there is a deficiency.
 - (D) Records of the audits of the employer's program are maintained by the auditor for three years and are made available by the auditor to the Deputy Commissioner for Occupational Safety and Health or his designee upon request.
 - (6) A qualification under this Paragraph is:
 - (A) Not portable.
 - (B) Valid for five years.
 - (d) Option (3): Qualification by the U.S. military.
 - (1) For purposes of this Rule, an operator is considered qualified if he/she has a current operator qualification issued by the U.S. military for operation of the equipment.
 - (2) A qualification under this Paragraph is:
 - (A) Not portable.
 - (B) Valid for the period of time stipulated by the issuing entity.
 - (e) Option (4): Licensing by a government entity.
 - (1) For purposes of this Rule, a government licensing department/office that issues operator licenses for operating equipment covered by this Section is considered a government accredited crane/derrick operator testing organization if the criteria in Subparagraph (e)(2) of this Rule are met.
 - (2) Licensing criteria.
 - (A) The requirements for obtaining the license include an assessment, by written and practical tests, of the operator applicant regarding the knowledge and skills listed in Subparagraphs (i)(1) and (i)(2) of this Rule.
 - (B) The testing meets the criteria for written testing materials, practical examinations, test administration, grading, facilities/equipment and personnel approved by the National Commission for Certifying Agencies (NCCA) or the American National Standards Institute (ANSI).
 - (C) The government authority that oversees the licensing department/office, has determined that the requirements in Parts (e)(2)(A) and (e)(2)(B) of this Rule have been met.
 - (D) The licensing department/office has testing procedures for re-licensing designed to ensure that the operator continues to meet the technical knowledge and skills requirements in Subparagraphs (i)(1) and (i)(2) of this Rule.
 - (3) A license issued by a government accredited crane/derrick operator testing organization that meets the requirements of this Option.
 - (A) Meets the operator qualification requirements of this Rule for operation of equipment only with the jurisdiction of the government entity.
 - (B) Is valid for the period of time stipulated by the licensing department/office, but no longer than five years.
 - (f) Pre-qualification/certification training period.

- (1) An employee who is not qualified or certified under this Section is permitted to operate equipment where the requirements of Subparagraph (f)(2) of this Rule are met.
- (2) An employee who has not passed both the written nor practical tests required under this Rule may operate equipment as part of his/her training where the following requirements are met:
 - (A) The employee ("trainee/apprentice") is provided with sufficient training prior to operating the equipment to enable the trainee to operate the equipment safely under limitations established by this Section (including continuous supervision) and any additional limitation established by the employer.
 - (B) The tasks performed by the trainee/apprentice while operating the equipment are within the trainee's ability.
 - (C) Supervisor. While operating the equipment, the trainee/apprentice is continuously supervised by an individual ("operator's supervisor") who meets the following requirements:
 - (i) The operator's supervisor is an employee or agent of the trainee's/apprentice's employer.
 - (ii) The operator's supervisor is either a certified operator under this Rule, or has passed the written portion of a certification test under one of the Options in Paragraphs (b) through (e) of this Rule, and is familiar with the proper use of the equipment's controls.
 - (iii) While supervising the trainee/apprentice, the operator's supervisor performs no tasks that detract from the supervisor's ability to supervise the trainee/apprentice.
 - (iv) For equipment other than tower cranes: the operator's supervisor and the trainee/apprentice shall be in direct line of sight of each other. In addition, they shall communicate verbally or by hand signals. For tower cranes: the operator's supervisor and the trainee/apprentice shall be in direct communication with each other.
- (D) Continuous supervision. The trainee/apprentice is supervised by the operator's supervisor at all times, except for breaks where the following are met:
 - (i) The break lasts no longer than 15 minutes and there is no more than one break per hour.
 - (ii) Immediately prior to the break the operator's supervisor informs the trainee/apprentice of the specific tasks that the trainee/apprentice is to perform and limitations that he/she is to adhere to during the operator supervisor's break.
 - (iii) The specific tasks that the trainee/apprentice will perform during the operator supervisor's break are within the trainee's/apprentice's abilities.
- (E) The trainee/apprentice does not operate the equipment in any of the following circumstances:
 - (i) If any part of the equipment, load line or load (including rigging and lifting accessories), if operated up to the equipment's maximum working radius in the work zone (see 13 NCAC 07F .0913(b)(1)(A)), could get within 20 feet of a power line that is up to 350 kV, or within 50 feet of a power line that exceeds 350 kV.
 - (ii) If the equipment is used to hoist personnel.
 - (iii) In multiple-equipment lifts.
 - (iv) If the equipment is used over a shaft, cofferdam, or in a tank farm.
 - (v) For multiple-lift rigging, except where the operator's supervisor determines that the trainee's/apprentice's skills are sufficient for this high-skill work.
- (g) Under this Rule, a testing entity may provide training as well as testing services as long as the criteria of the applicable accrediting agency (in the Option selected) for an organization providing both services are met.

- (h) Written tests under this Rule may be administered verbally, with answers given verbally, where the operator candidate:
- (1) Passes a written demonstration of literacy relevant to the work.
 - (2) Demonstrates the ability to use the type of written manufacturer procedures applicable to the class/type of equipment for which the candidate is seeking certification.
- (i) Certification criteria. Qualifications and certifications shall be based on the following:
- (1) A determination through a written test that:
 - (A) The individual knows the information necessary for safe operation of the specific type of equipment the individual will operate, including the following:
 - (i) The controls and operational/performance characteristics.
 - (ii) Use of, and the ability to calculate (manually or with a calculator), load/capacity information on a variety of configurations of the equipment.
 - (iii) Procedures for preventing and responding to power line contact.
 - (iv) Technical knowledge similar to the subject matter criteria listed in 13 NCAC 07F .0927. Use of the requirements in 13 NCAC 07F .0927 meets the requirements of this provision.
 - (v) Technical knowledge applicable to:
 - (I) The suitability of the supporting ground and surface to handle expected loads.
 - (II) Site hazards.
 - (III) Site access.
 - (vi) This Section, including applicable incorporated materials.
 - (B) The individual is able to read and locate relevant information in the equipment manual and other materials containing information referred to in Part (i)(1)(A) of this Rule.
 - (2) A determination through a practical test that the individual has the skills necessary for safe operation of the equipment, including the following:

- (A) Ability to recognize, from visual and audible observation, the items listed in 13 NCAC 07F .0915(d) (shift inspection).
- (B) Operational and maneuvering skills.
- (C) Application of load chart information.
- (D) Application of safe shut-down and securing procedures.

(j) Definitions.

- (1) "Portable." Any employer of an operator with a certification that is portable under this Section meets the requirements of Paragraph (a) of this Rule with respect to that operator.
- (2) "Not portable." Where an operator has a qualification that is not portable under this Rule, the qualification meets the requirements of Paragraph (a) of this Rule only where the operator is employed by (and operating the equipment for) the employer that issued the qualification.

(k) Phase-in.

- (1) As of the effective date of this Rule, until two years after the effective date of this Rule, the following requirements apply:
 - (A) Operators of equipment covered by this Section shall be competent to operate the equipment safely.
 - (B) Where an employee assigned to operate machinery does not have the required knowledge or ability to operate the equipment safely, the employee shall be provided with the necessary training prior to operating the equipment. The employer shall ensure that the operator is evaluated to confirm that he/she understands the information provided in the training.
- (2) The effective date of Paragraphs (a) through (j) of this Rule is two years after the effective date of this Rule.

*History Note: Authority G.S. 95-131;
Eff. July 1, 2009.*

13 NCAC 07F .0905 SIGNAL PERSON QUALIFICATION

- (a) The employer of the signal person shall ensure that each signal person meets the qualification requirements contained in Paragraph (c) of this Rule prior to giving any signals. This requirement shall be met by using either Option (1) or Option (2).
- (1) Option (1) – Third party qualified evaluator. The signal person has documentation from a third party qualified evaluator showing that the signal person meets the qualification requirements contained in Paragraph (c) of this Rule.
 - (2) Option (2) – Employer's qualified evaluator. The employer has its qualified evaluator assess

the individual and determine that the individual meets the qualification requirements contained in Paragraph (c) of this Rule and provides documentation of that determination. An assessment by an employer's qualified evaluator under this Option is not portable.

- (3) The documentation for whichever Option is used shall be available while the signal person is employed by the employer.

(b) If an employer determines that a signal person qualified under Paragraph (c) of this Rule no longer has the understanding and skill required to safely perform the work, the employer shall not allow the individual to continue working as a signal person until re-training is provided and a re-assessment is made in accordance with Paragraph (a) of this Rule that confirms that the individual meets the qualification requirements.

(c) Qualification Requirements. Each signal person shall:

- (1) Know and understand the type of signals used. If hand signals are used, the signal person shall know and understand the standard method for hand signals.
- (2) Be competent in the application of the type of signals used.
- (3) Have a basic understanding of equipment operation and limitations, including the crane dynamics involved in swinging and stopping loads and boom deflection from hoisting loads.
- (4) Know and understand the relevant requirements of 13 NCAC 07F .0905 and 13 NCAC 07F .0919.
- (5) Demonstrate that he/she meets the requirements in 13 NCAC 07F .0905(c)(1) through (c)(4) through a verbal or written test, and through a practical test.

*History Note: Authority G.S. 95-131;
Eff. July 1, 2009.*

13 NCAC 07F .0916 OPERATION OF EQUIPMENT

(a) The employer shall comply with all manufacturer procedures applicable to the operational functions of equipment, including its use with attachments.

(b) Unavailable operation procedures.

- (1) Where the manufacturer procedures are unavailable, the employer shall develop and ensure compliance with all procedures necessary for the safe operation of the equipment and attachments.
- (2) Procedures for the operational controls shall be developed by a qualified person.
- (3) Procedures related to the capacity of the equipment shall be developed and signed by a qualified engineer familiar with the equipment.

(c) Accessibility of procedures.

- (1) The procedures applicable to the operation of the equipment, including rated capacities (load charts), recommended operating speeds, special hazard warnings, instructions, and

operator's manual, shall be readily available in the cab at all times for use by the operator.

- (2) Where rated capacities are available in the cab only in electronic form: in the event of a failure which makes the rated capacities inaccessible, the operator shall immediately cease operations or follow safe shut-down procedures until the rated capacities (in electronic or other form) are available.

(d) The operator shall not engage in any practice that diverts his/her attention while actually engaged in operating the crane, such as the use of cell phones (other than when used for signal communications) or other attention-diverting activities.

(e) Authority to Stop Operation. Whenever there is a concern as to safety, the operator shall have the authority to stop and refuse to handle loads until safety has been ensured.

(f) Leaving the equipment unattended. The operator shall not leave the controls while the load is suspended.

(g) Tag-out.

- (1) Tagging out of service equipment/functions. Where the employer has taken the equipment out of service, a tag shall be placed in the cab stating that the equipment is out of service and is not to be used. Where the employer has taken a function(s) out of service, a tag shall be placed in a conspicuous position stating that the function is out of service and not to be used.

- (2) Response to tag-out or maintenance/do not operate signs.

(A) If there is a warning (tag-out or maintenance/do not operate) sign on the equipment or starting control, the operator shall not activate the switch or start the equipment until the sign has been removed by a person authorized to remove it, or until the operator has verified that:

- (i) No one is servicing, working on, or otherwise in a dangerous position on the machine.
- (ii) The equipment has been repaired and is working properly.

(B) If there is a warning (tag-out or maintenance/do not operate) sign on any other switch or control, the operator shall not activate that switch or control until the sign has been removed by a person authorized to remove it, or until the operator has verified that the requirements in Subparts (g)(2)(A)(i) and (g)(2)(A)(ii) of this Rule have been met.

(h) Before starting the engine, the operator shall verify that all controls are in the proper starting position and that all personnel are in the clear.

(i) Storm Warning. When a local storm warning has been issued, the competent person shall determine whether it is necessary to implement manufacturer recommendations for securing the equipment.

(j) The operator shall be familiar with the equipment and its proper operation. If adjustments or repairs are necessary, the operator shall promptly inform the person designated by the employer to receive such information and, where there are successive shifts, to the next operator.

(k) If the competent person determines that there is a slack rope condition requiring re-spooling of the rope, it shall be verified (before starting to lift) that the rope is seated on the drum and in the sheaves as the slack is removed.

(l) The competent person shall consider the effect of meteorological conditions such as wind, rain, ice, or snow on equipment stability and rated capacity.

(m) Compliance with rated capacity.

(1) The equipment shall not be operated in excess of its rated capacity.

(2) The operator shall not be required to operate the equipment in a manner that would violate Subparagraph (m)(1) of this Rule.

(3) Load weight. The operator shall verify that the load is within the rated capacity of the equipment by at least one of the following methods:

(A) The weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. In addition, when requested by the operator, this information shall be provided to the operator prior to the lift; or

(B) The operator shall begin hoisting the load to determine, using a load weighing device, load moment indicator, rated capacity indicator, or rated capacity limiter, if it exceeds 75 percent of the maximum rated capacity at the longest radius that will be used during the lift operation. If it does, then the lift is considered to be a critical lift and the operator shall not proceed with the lift until he/she verifies the weight of the load in accordance with Part (m)(3)(A) of this Rule.

(n) Work Area Control.

(1) Swing radius hazards.

(A) The requirements in Part (n)(1)(B) of this Rule apply where there are accessible areas in which the equipment's rotating superstructure (whether permanently or temporarily

mounted) poses a reasonable foreseeable risk of:

(i) Striking and injuring an employee; or

(ii) Pinching/crushing an employee against another part of the equipment or another object.

(B) To prevent employees from entering these hazard areas, the employer shall:

(i) Instruct employees assigned to work on the equipment or within the accessible areas of the swing radius of the equipment ("authorized personnel") in how to recognize struck-by and pinch/crush hazard areas posed by the rotating superstructure.

(ii) Erect and maintain control lines, warning lines, railing or similar barriers to mark the boundaries of the hazard areas. Exception: where it is neither feasible to erect such barriers on the ground nor on the equipment, the hazard areas shall be marked by a combination of warning signs (such as "Danger – Swing/Crush Zone") and high visibility markings on the equipment that identify the hazard areas. In addition, the employer shall train the employees to understand what these markings signify.

(C) Protecting employees in the hazard area.

(i) Before an employee goes to a location in the hazard area that is out of view of the operator, the employee (or someone instructed by the employee) shall ensure that the operator is informed that he/she is going to that location.

(ii) Where the operator knows that an employee went to a location covered by Subparagraph (n)(1)(C)(i) of this Rule, the operator shall not rotate the superstructure until the operator:

- (I) Gives a warning that is understood by the employee as a signal that the superstructure is about to be rotated and allows time for the employee to get to a safe position, or
 - (II) Is informed in accordance with a pre-arranged system of communication that the employee is in a safe position.
- (2) Multiple equipment coordination. Where any part of a crane/derrick is within the working radius of another crane/derrick, the controlling entity shall institute a system to coordinate operations. If there is no controlling entity, the employers shall institute such a system.
- (o) The boom or other parts of the equipment shall not contact any obstruction.
- (p) The equipment shall not be used to drag or pull loads sideways.
- (q) On wheel-mounted equipment, no loads shall be lifted over the front area, except as permitted by the manufacturer.
- (r) The operator shall test the brakes each time a load that is 90 percent or more of the maximum line pull is handled by lifting the load a few inches and applying the brakes. In duty cycle and repetitive lifts where each lift is 90 percent or more of the maximum line pull, this requirement applies to the first lift but not to successive lifts.
- (s) Neither the load nor the boom shall be lowered below the point where less than two full wraps of rope remain on their respective drums.
- (t) Keeping Clear of the Load.
 - (1) Hoisting routes that minimize the exposure of employees to hoisted loads shall be used.
 - (2) While the operator is not moving a suspended load, no employee shall be within the fall zone, except for employees:
 - (A) Engaged in hooking, unhooking or guiding a load, or
 - (B) Engaged in the initial attachment of the load to a component structure, or
 - (C) Operating a concrete hopper or concrete bucket.
 - (3) When employees are engaged in hooking, unhooking, or guiding the load, or in the initial connection of a load to a component or structure and are within the fall zone, the following criteria shall be met:
 - (A) The materials being hoisted shall be rigged to prevent unintentional displacement.
 - (B) Hooks with self-closing latches or their equivalent shall be used. Exception: "J" hooks may be used for setting wooden trusses.
 - (C) The materials shall be rigged by a qualified rigger.
- (4) Receiving a load. Only employees needed to receive a load shall be permitted to be within the fall zone when a load is being landed.
- (5) During a tilt-up or tilt-down operation:
 - (A) No employee shall be directly under the load.
 - (B) Only employees' essential to the operation shall be in the fall zone (but not directly under the load).
- (u) Traveling with a load.
 - (1) Traveling with a load is prohibited if the practice is prohibited by the manufacturer.
 - (2) When traveling with a load, the employer shall ensure that:
 - (A) A competent person supervises the operation, determines if it is necessary to reduce rated capacity, and makes determinations regarding load position, boom location, ground support, travel route, overhead obstructions, and speed of movement necessary to ensure safety.
 - (B) The determinations of the competent person required in Part (u)(2)(A) of this Rule are implemented.
 - (C) For equipment with tires, tire pressure specified by the manufacturer is maintained.
- (v) Free Fall and Controlled Load Lowering.
 - (1) Boom free fall prohibitions.
 - (A) The use of equipment in which the boom is designed to free fall (live boom) is prohibited in each of the following circumstances.
 - (i) An employee is in the fall zone of the boom or load.
 - (ii) An employee is being hoisted.
 - (iii) The load or boom is directly over a power line, or over any part of the area extending the 13 NCAC 07F .0913, Table A clearance distance to each side of the power line.
 - (iv) The load is over a shaft.
 - (v) The load is over a cofferdam, except where there are no employees in the fall zone.
 - (vi) Lifting operations are taking place in a refinery or tank farm.

- (B) The use of equipment in which the boom is designed to free fall (live boom) is permitted only where none of the circumstances listed in Part (v)(1)(A) of this Rule are present and:
 - (i) The equipment was manufactured prior to October 31, 1984, or
 - (ii) The equipment is a floating crane/derrick or a land crane/derrick on a vessel/flotation device.
- (2) Preventing boom free fall. Where the use of equipment with a boom that is designed to free fall (live boom) is prohibited (see Part (v)(1)(A) of this Rule), the boom hoist shall have a secondary mechanism or device designed to prevent the boom from falling in the event the primary system used to hold or regulate the boom hoist fails as follows:
 - (A) Friction drums shall have:
 - (i) A friction clutch and, in addition, a braking device, to allow for controlled boom lowering.
 - (ii) A secondary braking or locking device, which is manually or automatically engaged, to back-up the primary brake while the boom is held (such as a secondary friction brake or a ratchet and pawl device).
 - (B) Hydraulic drums shall have an integrally mounted holding device or internal static brake to prevent boom hoist movement in the event of hydraulic failure.
 - (C) Neither clutches nor hydraulic motors shall be considered brake or locking devices for purposes of this Section.
 - (D) Hydraulic boom cylinders shall have an integrally mounted holding device.
- (3) Preventing uncontrolled retraction. Hydraulic telescoping booms shall have an integrally mounted holding device to prevent boom from retracting in the event of hydraulic failure.
- (4) Load line free fall. In each of the following circumstances, controlled load lowering is required and free fall of the load line hoist is prohibited.
 - (A) An employee is directly under the load.
 - (B) An employee is being hoisted.
 - (C) The load is directly over a power line, or over any part of the area extending the 13 NCAC 07F .0913, Table A clearance distance to each side of the power line.
 - (D) The load is over a shaft or cofferdam.
- (w) Rotational speed of the equipment shall be such that the load does not swing out beyond the radius at which it can be controlled.
- (x) A tag or restrain line shall be used if necessary to prevent rotation of the load that would be hazardous.
- (y) The brakes shall be adjusted in accordance with manufacturer procedures to prevent unintended movement.
- (z) The operator shall obey a stop (or emergency stop) signal, irrespective of who gives it.
- (aa) Swinging locomotive cranes. A locomotive crane shall not be swung into a position where it is reasonably foreseeable that railway cars on an adjacent track could strike it, until it is determined that cars are not being moved on the adjacent track and that proper flag protection has been established.
- (bb) Counterweight/ballast.
 - (1) The following applies to equipment other than tower cranes:
 - (A) Equipment shall not be operated without the counterweight or ballast in place as specified by the manufacturer.
 - (B) The maximum counterweight or ballast specified by the manufacturer for the equipment shall not be exceeded.
 - (2) Counterweight/ballast requirements for tower cranes are specified in 13 NCAC 07F .0921(b)(8).
- (cc) Multiple-Crane / Derrick Lifts – Supplemental Requirements.
 - (1) Plan Development. Before beginning a crane/derrick operation in which more than one crane/derrick will be supporting the load, the operation shall be planned. The planning shall meet the following requirements:
 - (A) The plan shall be developed by a qualified person.
 - (B) The plan shall be designed to ensure that the requirements of this Section are met.
 - (C) Where the qualified person determines the engineering expertise is needed for the planning, the employer shall ensure that it is provided.
 - (2) Plan Implementation.
 - (A) The multiple-crane / derrick lift shall be supervised by a person who meets the criteria for both a competent person and a qualified person, or by a competent person who is assisted by one or more qualified persons.
 - (B) The supervisor shall review the plan with all employees who will be involved with the operation.
 - (3) The provisions of 13 NCAC 07F .0919(k) regarding communication with multiple cranes/derricks shall apply.

*History Note: Authority G.S. 95-131;
Eff. July 1, 2009.*

13 NCAC 07F .0919 SIGNALS

(a) A signal person shall be provided in each of the following situations:

- (1) The point of operation, meaning the load travel or the area near or at load placement, is not in full view of the operator.
- (2) When the equipment is traveling, the view in the direction of travel is obstructed.
- (3) Due to site specific safety concerns, either the operator or the person handling the load determines that it is necessary.

(b) Types of signals. Signals to operators shall be by hand, voice, audible, or new signals.

(c) Hand signals.

- (1) When using hand signals, the standard method as established in ASME B30.5-2004, Section 5.3.3.4 shall be used. Exception: where use of the standard method for hand signals is infeasible, or where an operation or use of an attachment is not covered in the standard method, non-standard hand signals may be used in accordance with Subparagraph (c)(2) of this Rule.
- (2) Non-standard hand signals. When using non-standard hand signals, the signal person, operator, and lift supervisor (when there is one) shall contact each other prior to the operation and agree on the non-standard hand signals that will be used.

(d) New signals. Signals other than hand, voice or audible signals may be used where the employer demonstrates that:

- (1) The new signals provide at least equally effective communications as voice, audible, or Standard Method hand signals, or
- (2) There is a national consensus standard, as that term is defined in 29 CFR 1910.2(g), for the new signals.

(e) Use and Suitability.

- (1) Prior to beginning operations, the operator, signal person, and lift supervisor (if there is one), shall contact each other and agree on the voice signals that will be used. Once the voice signals are agreed upon, these employees need not meet again to discuss voice signals unless another employee is substituted, there is confusion about the voice signals, or a voice signal is to be changed.
- (2) Each voice signal shall contain the following three elements, given in the following order: function (such as hoist, boom, etc.), direction; distance or speed; function, stop command.
- (3) The operator, signal person and lift supervisor (if there is one), shall be able to effectively communicate in the language used.
- (4) The signals used (hand, voice, audible, or new), and means of transmitting the signals to

the operator (such as direct line of sight, video, radio, etc.) shall be appropriate for the site conditions.

(f) During operations requiring signals, the ability to transmit signals between the operator and signal person shall be maintained. If that ability is interrupted at any time, the operator shall safely stop operations requiring signals until it is reestablished and a proper signal is given and understood.

(g) If the operator becomes aware of a safety problem and needs to communicate with the signal person, the operator shall safely stop operations. Operations shall not resume until the operator and signal person agree that the problem has been resolved.

(h) Only one person gives signals to a crane/derrick at a time, except in circumstances covered by Paragraph (i) of this Rule.

(i) Anyone who becomes aware of a safety problem shall alert the operator or signal person by giving the stop or emergency stop signal. (NOTE: 13 NCAC 07F .0916(z) requires the operator to obey a stop or emergency stop signal).

(j) All directions given to the operator by the signal person shall be given from the operator's direction perspective.

(k) Communication with multiple cranes/derricks. Where a signal person(s) is in communication with more than one crane/derrick, a system for identifying the crane/derrick that each signal is for shall be used, as follows:

- (1) For each signal, prior to giving the function/direction, the signal person shall identify the crane/derrick the signal is for, or
- (2) An equally effective method of identifying which crane/derrick the signal is for shall be used.

(l) Hand signal chart. Hand signal charts shall be either posted on the equipment or readily available at the site.

(m) Radio, Telephone or Other Electronic Transmission of Signals.

- (1) The device(s) used to transmit signals shall be tested on site before beginning operations to ensure that the signal transmission is clear and reliable.
- (2) Signal transmission shall be through a dedicated channel. Exception: Multiple cranes/derricks and one or more signal persons may share a dedicated channel for the purpose of coordinating operations.
- (3) The operator's reception of signals shall be made by a hands-free system.

*History Note: Authority G.S. 95-131;
Eff. July 1, 2009.*

13 NCAC 07F .0920 HOISTING PERSONNEL

The requirements of this Rule are supplemental to the other requirements in this Section and apply when one or more employees are hoisted.

- (1) The use of equipment to hoist employees is prohibited except where the employer demonstrates that the erection, use, and dismantling of conventional means of reaching the worksite, such as a personnel hoist, ladder, stairway, aerial lift, elevating work platform,

- or scaffold, would be more dangerous, or is not possible because of the project's structural design or worksite conditions.
- (2) Use of personnel platform.
- (a) When using equipment to hoist employees, the employees shall be in a personnel platform that meets the requirements of Paragraph (5) of this Rule.
- (b) Exceptions: A personnel platform is not required for hoisting employees:
- (i) Into and out of drill shafts that are up to and including eight feet in diameter (see Item (13) of this Rule for requirements for hoisting these employees).
- (ii) In pile driving operations (see Item (14) of this Rule for requirements for hoisting these employees).
- (iii) Solely for transfer to or from a marine worksite in a marine hoisted personnel transfer device (see Item (15) of this Rule for requirements for hoisting these employees).
- (iv) In storage tank (steel or concrete), shaft and chimney operations (see Item (16) of this Rule for requirements for hoisting these employees).
- (3) Equipment set-up.
- (a) The equipment shall be uniformly level, within one percent of level grade, and located on footing that a qualified person has determined to be sufficiently firm and to support the equipment.
- (b) Equipment with outriggers shall have them all extended and locked. The amount of extension shall be the same for all outriggers and in accordance with manufacturer procedures and load charts.
- (4) Equipment criteria.
- (a) Capacity: use of suspended personnel platforms. The total load (with the platform loaded, including the hook, load line and rigging) shall not exceed 50 percent of the rated capacity for the radius and configuration of the equipment, except during proof testing.
- (b) Capacity: use of boom-attached personnel platforms. The total weight of the loaded personnel platform shall not exceed 50 percent of the rated capacity for the radius and configuration of the equipment, except during proof testing.
- (c) Capacity: hoisting personnel without a personnel platform. When hoisting personnel without a personnel platform pursuant to Sub-Item (2)(b) of this Rule, the total load (including the hook, load line, rigging and any other equipment that imposes a load) shall not exceed 50 percent of the rated capacity for the radius and configuration of the equipment, except during proof testing.
- (d) When the occupied personnel platform is in a stationary working position, the load and boom hoist brakes, swing brakes, and operator actuated secondary braking and locking features (such as pawls or dogs) or automatic secondary brakes shall be engaged.
- (e) Devices.
- (i) Equipment (except for derricks) with a variable angle boom shall be equipped with:
- (A) A boom angle indicator, readily visible to the operator.
- (B) A boom hoist limiting device.
- (ii) Equipment with a luffing jib shall be equipped with:
- (A) A jib angle indicator, readily visible to the operator.
- (B) A jib hoist limiting device.
- (iii) Equipment with telescoping booms shall be equipped with a device to indicate the boom's extended length to the operator, or shall have measuring marks on the boom.
- (iv) Anti-two-block. A device which automatically prevents damage and load failure from contact between the load block, overhaul ball, or similar component, and the boom tip (or fixed upper block or similar component) shall be used. The device(s) shall prevent damage/failure

- at all points where two-blocking could occur. Exception: This device is not required when hoisting personnel in pile driving operations. Instead, Sub-Item (14)(b) of this Rule specifies how to prevent two-blocking during such operations.
 - (v) Controlled load lowering. The load line hoist drum shall have a system, other than the load line hoist brake, which regulates the lowering rate of speed of the hoist mechanism. This system or device shall be used when hoisting personnel.
(NOTE: free fall of the load line hoist is prohibited (see 13 NCAC 07F .0916(v)(4)); the use of equipment in which the boom hoist mechanism can free fall is also prohibited (see 13 NCAC 07F .0916(v)(1)(A)).
 - (vi) Proper operation required. Personnel hoisting operations shall not begin unless the devices listed in this section are in proper working order. If a device stops working properly during such operations, the operator shall safely stop operations. Personnel hoisting operations shall not resume until the device is again working properly. Alternative measures are not permitted.
 - (f) Direct attachment of a personnel platform to a luffing jib is prohibited.
- (5) Personnel platform criteria.
- (a) The personnel platform and attachments/suspension system shall be designed for hoisting personnel by a qualified engineer or a qualified person competent in structural design.
 - (b) The system used to connect the personnel platform to the equipment shall allow the platform to remain within 10 degrees of level, regardless of boom angle.
 - (c) The suspension system shall be designed to minimize tipping of the platform due to movement of employees occupying the platform.
- (d) The personnel platform itself (excluding the guardrail system and personal fall arrest system anchorages), shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load.
 - (e) All welding of the personnel platform and its components shall be performed by a certified welder familiar with the weld grades, types and material specified in the platform design.
 - (f) The personnel platform shall be equipped with a guardrail system which meets the requirements of 29 CFR 1926, Subpart M, and shall be enclosed at least from the toeboard to mid-rail with either solid construction material of expanded metal having openings no greater than ½ inch (1.27 cm). Points to which personal fall arrest systems are attached shall meet the anchorage requirements in 29 CFR 1926, Subpart M.
 - (g) A grab rail shall be installed inside the entire perimeter of the personnel platform except for access gates/doors.
 - (h) Access gates/doors. If installed, access gates/doors of all types (including swinging, sliding, folding, or other types) shall:
 - (i) Not swing outward.
 - (ii) Be equipped with a device that prevents accidental opening.
 - (i) Headroom shall be sufficient to all employees to stand upright in the platform.
 - (j) In addition to the use of hard hats, employees shall be protected by overhead protection on the personnel platform when employees are exposed to falling objects. The platform overhead protection shall not obscure the view of the operator or platform occupants (such as wire mesh that has up to ½ inch openings), unless full protection is necessary.
 - (k) All edges exposed to employee contact shall be smooth enough to prevent injury.
 - (l) The weight of the platform and its rated capacity shall be conspicuously posted on the platform with a plate or other permanent marking.
- (6) Personnel platform loading.

- (a) The personnel platform shall not be loaded in excess of its rated capacity.
 - (b) Use.
 - (i) Personnel platforms shall be used only for employees, their tools, and the materials necessary to do their work. Platforms shall not be used to hoist materials or tools when not hoisting personnel.
 - (ii) Exception: materials and tools to be used during the lift, if secured and distributed in accordance with Sub-Item (6)(c) of this Rule, may be in the platform for trial lifts.
 - (c) Materials and tools shall be:
 - (i) Secured to prevent displacement.
 - (ii) Evenly distributed within the confines of the platform while it is suspended.
 - (d) The number of employees occupying the personnel platform shall not exceed the maximum number the platform was designed to hold or the number required to perform the work, whichever is less.
- (7) Attachment and rigging.
- (a) Hooks and other detachable devices.
 - (i) Hooks used in connection between the hoist line and the personnel platform (including hooks on overhaul ball assemblies, lower load blocks, bridle legs, or other attachment assemblies or components) shall be:
 - (A) Of a type that can be closed and locked, eliminating the throat opening.
 - (B) Closed and locked when attached.
 - (ii) Shackles used in place of hooks shall be of the alloy anchor type, with either:
 - (A) A bolt, nut and retaining pin, in place; or
 - (B) Of the screw type, with the screw pin secured from accidental removal.
 - (iii) Where other detachable devices are used, they shall be of the type that can be closed and locked to the same extent as the devices addressed in Sub-Items (7)(a)(i) and (7)(a)(ii) of this Rule. Such devices shall be closed and locked when attached.
 - (b) Rope Bridle. When a rope bridle is used to suspend the personnel platform, each bridle leg shall be connected to a master link or shackle in a manner that ensures that the load is evenly divided among the bridle legs.
 - (c) Rigging hardware (including wire rope, shackles, rings, master links, and other rigging hardware) and hooks shall be capable of supporting, without failure, at least five times the maximum intended load applied or transmitted to that component. Where rotation resistant rope is used, the slings shall be capable of supporting without failure at least ten times the maximum intended load.
 - (d) Eyes in wire rope slings shall be fabricated with thimbles.
 - (e) Bridles and associated rigging for suspending the personnel platform shall be used only for the platform and the necessary employees, their tools and materials necessary to do their work, and shall not be used for any other purpose when not hoisting personnel.
- (8) Trial lift and inspection.
- (a) A trial lift with the unoccupied personnel platform loaded at least to the anticipated lift weight shall be made from ground level, or any other location where employees will enter the platform, to each location at which the platform is to be hoisted and positioned. Where there is more than one location to be reached from a single set-up position, either individual trial lifts for each location, or a single trial lift for all locations, shall be performed.
 - (b) The trial lift shall be performed immediately prior to each shift in which personnel will be hoisted. In addition, the trial lift shall be repeated prior to hoisting employees in each of the following circumstances:
 - (i) The equipment is moved and set up on a new location or returned to a previously used location.

- (ii) The lift route is changed, unless the competent person determines that the new route presents no new factors affecting safety.
- (c) The competent person shall determine that:
 - (i) Safety devices and operational aids required by this Section are activated and functioning properly. Other safety devices and operational aids shall meet the requirements of 13 NCAC 07F .0917 and 13 NCAC 07F .0918.
 - (ii) Nothing interferes with the equipment or the personnel platform in the course of the trial lift.
 - (iii) The lift will not exceed 50 percent of the equipment's rated capacity at any time during the lift.
 - (iv) The load radius to be used during the lift has been accurately determined.
- (d) Immediately after the trial lift, the competent person shall:
 - (i) Conduct a visual inspection of the equipment, base support or ground, and personnel platform, to determine whether the trial lift has exposed any defect or problem or produced any adverse effect.
 - (ii) Confirm that, upon completion of the trial lift process, the test weight has been removed.
- (e) Immediately prior to each lift:
 - (i) The platform shall be hoisted a few inches and inspected by a competent person to ensure that it is secure and properly balanced.
 - (ii) The following conditions shall be determined by a competent person to exist before the lift of personnel proceeds:
 - (A) Hoist ropes shall be free of deficiencies in accordance with 13 NCAC 07F .0914(b)(1).
- (B) Multiple part lines shall not be twisted around each other.
 - (C) The primary attachment shall be centered over the platform.
 - (D) If the load rope is slack, the hoisting system shall be inspected to ensure that all ropes are properly seated on drums and in sheaves.
- (f) Any condition found during the trial lift and subsequent inspection(s) that fails to meet a requirement of this Section or otherwise creates a safety hazard shall be corrected before hoisting personnel.
- (9) Proof Testing.
 - (a) At each jobsite, prior to hoisting employees on the personnel platform, and after any repair or modification, the platform and rigging shall be proof tested to 125 percent of the platform's rated capacity. The proof test may be done concurrently with the trial lift.
 - (b) The platform shall be lowered by controlled load lowering, braked and held in a suspended position for a minimum of five minutes with the test load evenly distributed on the platform.
 - (c) After proof testing, a competent person shall inspect the platform and rigging to determine if the test has been passed. If any deficiencies are found that pose a safety hazard, the platform and rigging shall not be used to hoist personnel unless the deficiencies are corrected, the test is repeated, and a competent person determines that the test has been passed.
 - (d) Personnel hoisting shall not be conducted until the competent person determines that the platform and rigging have successfully passed the proof test.
- (10) Work practices.
 - (a) Hoisting of the personnel platform shall be performed in a slow, controlled, cautious manner, with no sudden movements of the equipment or the platform.
 - (b) Platform occupants shall:

- (i) Keep all parts of the body inside the platform during raising, lowering, and horizontal movement. This provision does not apply to an occupant of the platform when necessary to position the platform or while performing the duties of a signal person.
- (ii) Not stand, sit on, or work from the top or intermediate rail or toeboard, or use any other means/device to raise their working height.
- (iii) Not pull the platform out of plumb in relation to the hoisting equipment.
- (c) Before employees exit or enter a hoisted personnel platform that is not landed, the platform shall be secured to the structure where the work is to be performed, unless securing to the structure would create a greater hazard.
- (d) If the platform is tied to the structure, the operator shall not move the platform until the operator receives confirmation that it is freely suspended.
- (e) Tag lines shall be used when necessary to control the platform.
- (f) Platforms without controls. Where the platform is not equipped with controls, the equipment operator shall remain at the equipment controls at all times while the platform is occupied.
- (g) Platforms with controls. Where the platform is equipped with controls, the following shall be met at all times while the platform is occupied:
 - (i) The occupant using the controls in the platform shall be a qualified person with respect to their use, including the safe limitations of the equipment and hazards associated with its operation.
 - (ii) The equipment operator shall be at the equipment controls, or in the personnel platform, or on site and in view of the equipment.
 - (iii) The platform operating manual shall be in the platform or on the equipment.
- (h) Environmental conditions.
 - (i) Wind. When wind speed (sustained or gusts) exceeds 20 mph at the personnel platform, a qualified person shall determine if, in light of the wind conditions, it is not safe to lift personnel. If it is not, the lifting operation shall not begin (or, if already in progress, shall be terminated).
 - (ii) Other weather and environmental conditions. A qualified person shall determine if, in light of indications of dangerous weather conditions, or other impending or existing danger, it is not safe to lift personnel. If it is not, the lifting operation shall not begin (or, if already in progress, shall be terminated).
- (i) Employees being hoisted shall remain in direct communication with the signal person (where used), or the operator.
- (j) Fall protection.
 - (i) Except over water, employees occupying the personnel platform shall be provided and use a personal fall arrest system. The system shall be attached to a structural member within the personnel platform.
 - (ii) The fall arrest system, including the attachment point (anchorage) used to comply with Sub-Item (10)(j)(i) of this Rule, shall meet the requirements in 29 CFR 1926.502.
- NOTE: When working over or near water, the requirements of 29 CFR 1926.106 apply.
- (k) Other load lines.
 - (i) No lifts shall be made on any other of the equipment's load lines while personnel are being hoisted, except in pile driving operations.
 - (ii) Factory-produced boom-mounted personnel platforms that incorporate a winch as original equipment: loads may be hoisted by

- such a winch while employees occupy the personnel platform only where the load on the winch line does not exceed 500 pounds and does not exceed the rated capacity of the winch and platform.
- (l) Traveling – equipment other than derricks.
 - (i) Hoisting of employees while the equipment is traveling is prohibited, except for:
 - (A) Equipment that travels on fixed rails, or
 - (B) Where the employer demonstrates that there is no less hazardous way to perform the work.
 - (C) The exception in this Sub-item does not apply to rubber-tired equipment.
 - (ii) Where employees are hoisted while the equipment is traveling, the following criteria shall be met:
 - (A) Crane travel shall be restricted to a fixed track or runway.
 - (B) Where a runway is used, it shall be a firm, level surface designed, prepared and designated as a path of travel for the weight and configuration of the equipment being used to lift and travel with the personnel platform. An existing surface may be used as long as it meets these criteria.
 - (C) Travel shall be limited to boom length.
 - (D) The boom shall be parallel to the direction of travel, except where it is safer to do otherwise.
- (E) A complete trial run shall be performed to test the route of travel before employees are allowed to occupy the platform. This trial run may be performed at the same time as the trial lift required by Item (8) of this Rule which tests the lift route.
- (m) Traveling – derricks. Derricks are prohibited from traveling while personnel are hoisted.
- (11) Pre-lift meeting. A pre-lift meeting shall be:
 - (a) Held to review the applicable requirements of this Rule and the procedures that will be followed.
 - (b) Attended by the equipment operator, signal person (if used for the lift), employees to be hoisted, and the person responsible for the task to be performed.
 - (c) Held prior to the trial lift at each new work location, and shall be repeated for any employees newly assigned to the operation.
- (12) Hoisting personnel near power lines. Hoisting personnel within 20 feet of a power line that is up to 350 kV, and hoisting personnel within 50 feet of a power line that exceeds 350 kV, is prohibited, except for work covered by 29 CFR 1926, Subpart V (Power Transmission and Distribution). If the operating voltage of the power line exceeds 1,000 kV, then the minimum clearance distance shall be established by a qualified engineer or by the owner or operator of the power line who is a qualified person with respect to electrical power transmission and distribution.
- (13) Hoisting personnel in drill shafts. When hoisting employees into and out of drill shafts that are up to and including 8 feet in diameter, the following requirements shall be met:
 - (a) The employee shall be in either a personnel platform or on a boatswain's chair.
 - (b) If using a personnel platform, Paragraphs (1) through (12) of this Rule apply.
 - (c) If using a boatswain's chair:
 - (i) The following Items of this Rule apply: (1), (3), (4)(a), (4)(c), (4)(d), 5(a), (5)(b), (5)(c), (6)(a), (6)(b)(i), (6)(c)(i), (7), (8), (10)(a),

- (10)(f), (10)(h), (10)(i), (10)(k)(i), (11) and (12). Where the terms "personnel platform" or "platform" are used in these Paragraphs, substitute them with "boatswain's chair."
- (ii) A signal person shall be stationed at the shaft opening.
 - (iii) The employee shall be hoisted in a slow, controlled descent and ascent.
 - (iv) The employee shall use personal fall protection equipment, including a full body harness, attached independent of the crane/derrick.
 - (v) The fall protection equipment shall meet the applicable requirements in 29 CFR 1926.502.
 - (vi) The boatswain's chair itself (excluding the personal fall arrest system anchorages), shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load.
 - (vii) No more than one person shall be hoisted at a time.
- (14) Hoisting personnel for pile driving operations. When hoisting an employee in pile driving operations, the following requirements shall be met:
- (a) The employee shall be in a personnel platform or boatswain's chair.
 - (b) For lattice boom cranes, mark the cable (so that it can easily be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, or use a spotter. For telescopic boom cranes, mark the cable (so that it can be easily seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, and use a spotter.
 - (c) If using a personnel platform, Items (2) through (12) of this Rule apply.
 - (d) If using a boatswain's chair:
 - (i) The following Items of this Rule apply: (1), (3), (4)(a), (4)(c), (4)(d), 5(a), (5)(b), (5)(c), (6)(a), (6)(b)(i), (6)(c)(i), (7), (8), (9),
- (10)(a), (10)(f), (10)(h), (10)(i), (10)(k)(i), (11) and (12). Where the terms "personnel platform" or "platform" are used in these Paragraphs, substitute them with "boatswain's chair."
- (ii) The employee shall be hoisted in a slow, controlled descent and ascent.
 - (iii) The employee shall use personal fall protection equipment, including a full body harness, independently attached to the lower load block or overhall ball.
 - (iv) The fall protection equipment shall meet the applicable requirements in 29 CFR 1926.502.
- (15) Hoisting personnel for marine transfer. When hoisting employees solely for transfer to or from a marine worksite, the following requirements shall be met:
- (a) The employee shall be in either a personnel platform or a marine hoisted personnel transfer device.
 - (b) If using a personnel platform, Paragraphs (1) through (12) of this Rule apply.
 - (c) If using a marine hoisted personnel transfer device:
 - (i) The following Items of this Rule apply: (1), (3)(b), (4)(a), (4)(c), (4)(d), (5)(a) through (5)(e), (5)(l), (6)(a), (7), (8), (9), (10)(a), (10)(h), (10)(i), (10)(j)(ii), (10)(k)(i), (10)(l), (11) and (12). Where the terms "personnel platform" or "platform" are used in these paragraphs, substitute them with "marine hoisted personnel transfer device."
 - (ii) The transfer device shall be used only for transferring employees.
 - (iii) The number of employees occupying the transfer device shall not exceed the maximum number it was designed to hold.
 - (iv) Each employee shall wear a personal flotation device approved by the U.S. Coast Guard for industrial use.
- (16) Hoisting personnel for storage tank (steel or concrete), shaft and chimney operations.

When hoisting an employee in storage tank (steel or concrete), shaft and chimney operations, the following requirements shall be met:

- (a) The employee shall be in a personnel platform except where use of a personnel platform is infeasible; in such a case, a boatswain's chair shall be used.
- (b) If using a personnel platform, Items (1) through (12) of this Rule apply.
- (c) If using a boatswain's chair:
 - (i) The following Items of this Rule apply: (1), (3), (4)(a), (4)(c), (4)(d), (5)(a), (5)(b), (5)(c), (6)(a), (6)(b)(i), (6)(c)(i), (7), (8), (10)(a), (10)(f), (10)(h), (10)(i), (10)(k)(i), (11) and (12). Where the terms "personnel platform" or "platform" are used in these paragraphs, substitute them with "boatswain's chair."
 - (ii) The employees shall be hoisted in a slow, controlled descent and ascent.
 - (iii) The employee shall use personal fall protection equipment, including a full body harness, attached independent of the crane/derrick.
 - (iv) The fall protection equipment shall meet the applicable requirements in 29 CFR 1926.502.
 - (v) The boatswain's chair itself (excluding the personal fall arrest system anchorages), shall be capable of supporting, without failure, its own weight and at least five times the maximum intended load.
 - (vi) No more than one person shall be hoisted at a time.

History Note: Authority G.S. 95-131; Eff. July 1, 2009.

13 NCAC 07F .0921 TOWER CRANES

- (a) This Rule contains supplemental requirements for tower cranes; all rules of this Section apply to tower cranes unless specified otherwise.
- (b) Erecting, climbing and dismantling.
 - (1) 13 NCAC 07F .0912 (assembly and disassembly of equipment) applies to tower cranes (except as otherwise specified), except

that the term "assembly/disassembly" is replaced by "erecting, climbing and dismantling," and the term "disassembly" is replaced by "dismantling."

- (2) Dangerous areas (self-erecting tower cranes). In addition to the requirement in 13 NCAC 07F .0912(g), for self-erecting tower cranes, the following applies: Employees shall not be in or under the tower, jib, or rotating portion of the crane during erecting, climbing and dismantling operations until the crane is secured in a locked position and the competent person in charge indicates it is safe to enter this area, unless the manufacturer's instructions direct otherwise and only the necessary personnel are permitted in this area.
- (3) Foundations and structural supports. Tower crane foundations and structural supports shall be designed by the manufacturer or a qualified engineer.
- (4) Addressing specific hazards. The requirements of 13 NCAC 07F .0912(j)(1) through (j)(9) apply. In addition, the A/D supervisor shall address the following:
 - (A) Foundations and structural supports. The A/D supervisor shall verify that tower crane foundations and structural supports are installed in accordance with their design.
 - (B) Loss of backward stability. Backward stability shall be considered before swinging self-erecting cranes or cranes on traveling or static undercarriages.
 - (C) Wind speed. Wind shall not exceed the speed recommended by the manufacturer or, where manufacturer does not specify this information, the speed determined by a qualified person.
- (5) Plumb tolerance. Towers shall be erected plumb to the manufacturer's tolerance and verified by a qualified engineer. Where the manufacturer does not specify plumb tolerance, the crane tower shall be plumb to a tolerance of at least 1:500 (approximately 1 inch in 40 feet).
- (6) Multiple tower crane jobsites. On jobsites where more than one fixed jib (hammerhead) tower crane is installed, the cranes shall be located so that no crane may come in contact with the structure of another crane. Cranes may pass over one another.
- (7) Climbing procedures. Prior to, and during, all climbing procedures (including inside climbing and top climbing), the employer shall:
 - (A) Comply with all manufacturer prohibitions.

(B) Have a qualified engineer verify that the host structure is strong enough to sustain the forces imposed through the braces, brace anchorages and supporting floors.

(C) Ensure that no part of the climbing procedure takes place when wind exceeds the speed recommended by the manufacturer or, where the manufacturer does not specify this information, the speed determined by a qualified person.

(8) Counterweight/ballast.

(A) Equipment shall not be erected, dismantled or operated without the amount and position of counterweight or ballast in place as specified by the manufacturer or a qualified engineer familiar with the equipment.

(B) The maximum counterweight or ballast specified by the manufacturer or qualified engineer familiar with the equipment shall not be exceeded.

(c) Signs. The size and location of signs installed on tower cranes shall be in accordance with manufacturer specifications. Where these are unavailable, a qualified engineer familiar with the type of equipment involved shall approve in writing the size and location of any signs.

(d) Safety devices.

(1) 13 NCAC 07F .0918 does not apply to tower cranes.

(2) The following safety devices are required on all tower cranes unless otherwise specified:

(A) Boom stops on luffing boom type tower cranes.

(B) Jib stops on luffing boom type tower cranes if equipped with a jib attachment.

(C) Travel rail end stops at both ends of travel rail.

(D) Travel rail clamps on all travel bogies.

(E) Integrally mounted check valves on all load supporting hydraulic cylinders.

(F) Hydraulic system pressure limiting device.

(G) The following brakes, which shall automatically set in the event of pressure loss or power failure:

(i) A hoist brake on all hoists.

(ii) Swing brake.

(iii) Trolley brake.

(iv) Rail travel brake.

(H) Deadman control or forced neutral return control (hand) levers.

(I) Emergency stop switch at the operator's station.

(J) Trolley end stops at both ends of travel of the trolley.

(3) Proper operation required. Operations shall not begin unless the devices listed in this section are in proper working order. If a device stops working properly during operations, the operator shall safely stop operations. Operations shall not resume until the device is again working properly. Alternative measures are not permitted to be used.

(e) Operational aids.

(1) 13 NCAC 07F .0917 does not apply to tower cranes.

(2) The devices listed in this Rule ("operational aids") are required on all tower cranes covered by this Section, unless otherwise specified.

(3) Operations shall not begin unless the operational aids are in proper working order, except where the employer meets the specified temporary alternative measures. More protective alternative measures specified by the tower crane manufacturer, if any, shall be followed.

(4) If an operational aid stops working properly during operations, the operator shall safely stop operations until the temporary alternative measures are implemented or the device is again working properly. If a replacement part is no longer available, the use of a substitute device that performs the same type of function is permitted and is not considered a modification under 13 NCAC 07F .0911.

(5) Category I operational aids and alternative measures. Operational aids listed in this paragraph that are not working properly shall be repaired no later than seven days after the deficiency occurs. Exception: if the employer certifies that it has ordered the necessary parts within seven days of the occurrence of the deficiency, the repair shall be completed within seven days of receipt of the parts.

(A) Trolley travel limiting device. The travel of the trolley shall be restricted at both ends of the jib by a trolley travel limiting device to prevent the trolley from running into the trolley end stops. Temporary alternative measures:

(i) Option A. The trolley rope shall be marked (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the trolley prior to the end stops.

(ii) Option B. A spotter shall be used when operations are conducted within 10 feet of

- the outer or inner trolley end stops.
- (B) Boom hoist limiting device. The range of the boom shall be limited at the minimum and maximum radius. Temporary alternative measures: Mark the cable (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the boom hoist within the minimum and maximum boom radius, or use a spotter.
- (C) Anti two-blocking device. The tower crane shall be equipped with a device which automatically prevents damage from contact between the load block, overhaul ball, or similar component, and the boom tip (or fixed upper block or similar component). The device(s) shall prevent such damage at all points where two-blocking could occur. Temporary alternative measures. Mark the cable (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the hoist to prevent two-blocking, or use a spotter.
- (D) Hoist drum lower limiting device. Tower cranes manufactured more than one year after the effective date of this Rule shall be equipped with a device that prevents the last two wraps of hoist cable from being spooled off the drum. Temporary alternative measures: Mark the cable (so it can be seen by the operator) at a point that will give the operator sufficient time to stop the hoist prior to the last two wraps of hoist cable being spooled off the drum, or use a spotter.
- (E) Load moment limiting device. The tower crane shall have a device that prevents moment overloading. Temporary alternative measures: A radius indicating device shall be used (if the tower crane is not equipped with a radius indicating device, the radius shall be measured to ensure the load is within the rated capacity of the crane). In addition, the weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. This information shall be provided to the operator prior to the lift.
- (F) Hoist line pull limiting device. The capacity of the hoist shall be limited to prevent overloading, including each individual gear ratio if equipped with a multiple speed hoist transmission. Temporary alternative measures: The operator shall ensure that the weight of the load does not exceed the capacity of the hoist (including for each individual gear ratio if equipped with a multiple speed hoist transmission).
- (G) Rail travel limiting device. The travel distance in each direction shall be limited to prevent the travel bogies from running into the end stops or buffers. Temporary alternative measures: A spotter shall be used when operations are conducted within 10 feet of either end of the travel rail end stops.
- (H) Boom hoist drum positive locking device. The boom hoist drum shall be equipped with a device to positively lock the boom hoist drum. Temporary alternative measures: The device shall be manually set when required if an electric, hydraulic or automatic type is not functioning.
- (6) Category II operational aids and alternative measures. Operational aids listed in this paragraph that are not working properly shall be repaired no later than 30 days after the deficiency occurs. Exception: If the employer certifies that it has ordered the necessary parts within seven days of the occurrence of the deficiency, and the part is not received in time to complete the repair in 30 days, the repair shall be completed within seven days of receipt of the parts.
- (A) Boom angle or hook radius indicator.
- (i) Luffing boom tower cranes shall have a boom angle indicator readable from the operator's station.
- (ii) Hammerhead tower cranes manufactured more than one year after the effective date of this Rule shall have a hook radius indicator readable from the operator's station.
- (iii) Temporary alternative measures: Hook radii or boom angle shall be determined by measuring the

- hook radii or boom angle with a measuring device.
- (B) Trolley travel deceleration device. The trolley speed shall be automatically reduced prior to the trolley reaching the end limit in both directions. Temporary alternative measure: The operator shall reduce the trolley speed when approaching the trolley end limits.
- (C) Boom hoist deceleration device. The boom speed shall be automatically reduced prior to the boom reaching the minimum or maximum radius limit. Temporary alternative measure: The operator shall reduce the boom speed when approaching the boom maximum or minimum end limits.
- (D) Load hoist deceleration device. The load speed shall be automatically reduced prior to the hoist reaching the upper limit. Temporary alternative measure: The operator shall reduce the hoist speed when approaching the upper limit.
- (E) Wind speed indicator. A device shall be provided to display the wind speed and shall be mounted above the upper rotating structure on tower cranes. On self erecting cranes, it shall be mounted at or above the jib level. Temporary alternative measures: Use of wind speed information from a properly functioning indicating device on another tower crane on the same site, or a qualified person estimates the wind speed.
- (F) Load indicating device. Cranes manufactured more than one year after the effective date of this Rule shall have a device that displays the magnitude of the load on the hook. Displays that are part of load moment limiting devices that display the load on the hook meet this requirement. Temporary alternative measures: The weight of the load shall be determined from a reliable source (such as the load's manufacturer), by a reliable calculation method (such as calculating a steel beam from measured dimensions and a known per foot weight), or by other equally reliable means. This information shall be provided to the operator prior to the lift.

- (1) 13 NCAC 07F .0915 (Inspections) applies to tower cranes, except that the term "assembly" is replaced by "erection."
- (2) Post-erection inspections. In addition to the requirements in 13 NCAC 07F .0915(c), the following requirements shall be met:
 - (A) A load test using weights certified in accordance with Chapter 81A of the North Carolina General Statutes, or scaled weights using a scale with a current certificate of calibration, shall be conducted after each erection.
 - (B) The load test shall be conducted in accordance with the manufacturer's instructions. Where these instructions are unavailable, a qualified engineer familiar with the type of equipment involved shall develop written load test procedures.
- (3) Monthly. The following additional items shall be included:
 - (A) Tower (mast) bolts and other structural bolts (for loose or dislodged condition) from the base of the tower crane up or, if the crane is tied to or braced by the structure, those above the upper-most brace support.
 - (B) The upper-most tie-in, braces, floor supports and floor wedges where the tower crane is supported by the structure, for loose or dislodged components.

*History Note: Authority G.S. 95-131;
Eff. July 1, 2009.*

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0304 FRENCH BROAD RIVER BASIN
(a) The French Broad River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina
 - (B) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering Tennessee are classified "B."

(f) Inspections.

(c) The French Broad River Basin Schedule of Classifications and Water Quality Standards was amended effective:

- (1) September 22, 1976;
- (2) March 1, 1977;
- (3) August 12, 1979;
- (4) April 1, 1983;
- (5) August 1, 1984;
- (6) August 1, 1985;
- (7) February 1, 1986;
- (8) May 1, 1987;
- (9) March 1, 1989;
- (10) October 1, 1989;
- (11) January 1, 1990;
- (12) August 1, 1990;
- (13) August 3, 1992;
- (14) October 1, 1993;
- (15) July 1, 1995;
- (16) November 1, 1995;
- (17) January 1, 1996;
- (18) April 1, 1996;
- (19) August 1, 1998;
- (20) August 1 2000;
- (21) August 1, 2002;
- (22) September 1, 2004;
- (23) November 1, 2007;
- (24) May 1, 2009.

(d) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective March 1, 1989 as follows:

- (1) Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout and Class C to Class C-trout ORW and Class C ORW.
- (2) South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.

(e) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens Creek and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.

(g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were

reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were reclassified from Class C Trout to Class WS-V Trout.

(i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-(9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and WS-IV.

(j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-(37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA, and C Trout.

(k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA to Class C.

(l) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-V; French Broad River [Index No. 6-(51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS-III CA (Critical Area).

(m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.

(n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source to Lewis Creek from Class C Tr to Class B Tr.

(o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.

(p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the revision to the primary classification for the French Broad River [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.

(q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)], including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.

(r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch [Index No. 5-16-11], and tributaries already classified as Tr.

(s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index No. 6-47] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

(t) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin was amended May 1, 2009 with the reclassification of Boylston Creek [Index No. 6-52-(0.5)], from source to a point 0.3 mile upstream of Murray Branch and all tributaries to this portion of the Creek, from Class C to Class C Tr.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;

Amended Eff. November 1, 2007; September 1, 2004; August 1, 2002; August 1, 2000; August 1, 1998; April 1, 1996; January 1, 1996; November 1, 1995; July 1, 1995;

Amended Eff. Pending Legislative Review.

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

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

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

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

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

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 shall validate the Big Game Harvest Report Card furnished with the big game hunting license by cutting or

punching out the validation box that correctly identifies the big game animal harvested. In lieu of the Big Game Harvest Report Card, antlerless deer may be recorded as outlined above on the Bonus Antlerless Deer Harvest Report Card acquired from the Wildlife Resources Commission or a Wildlife Service Agent.

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

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

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

(e) Persons who are by law exempt from the big game hunting license shall obtain a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card for License Exempt Hunters from a Wildlife Service Agent at no cost. Upon

harvesting a bear, deer, wild boar, or wild turkey, the exempt person shall validate the Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card and register the kill as provided by this Rule.

(f) Persons who use 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.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1989;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. June 1, 2009; May 1, 2007; May 1, 2004; July 1, 2000.

15A NCAC 10B .0116 PERMITTED ARCHERY EQUIPMENT

(a) Only longbows and recurved bows having a minimum pull of 40 pounds, compound bows having a minimum pull of 35 pounds and crossbows shall be used for taking game.

(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 shall have a minimum pull rated at least 150 pounds. Heads on bolts used with crossbows shall conform to those described for arrows in Paragraph (b) of this Rule.

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

Eff. September 1, 1980;

Amended Eff. May 1, 2007; August 1, 2002; July 1, 2000; July 1, 1998; July 1, 1996; August 1, 1990;

Amended Eff. Pending Legislative Review.

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 and special concern species 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 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 shall be issued to representatives of educational or scientific institutions or of governmental agencies without charge. Such license shall be used in lieu of any other hunting or trapping license required by law and shall authorize possession and transportation of the

wildlife incidental to the authorized taking, except that it shall not authorize the taking, possession or transportation of any species of wildlife in violation of federal laws or regulations.

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

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

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

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

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

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

History Note: Authority G.S. 113-134; 113-272.4;

Eff. January 1, 1981;

Amended Eff. May 1, 2009; May 1, 2008; April 1, 2001;

February 1, 1994; November 1, 1990; September 1, 1989.

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. 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 on private lands 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.

(c) On Sundays, hunting on public lands is allowed with the following restrictions:

(1) Only falconry is a lawful method 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.

(d) 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.

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

Eff. February 1, 1976;

Amended Eff. July 1, 1996; July 1, 1987;

Amended Eff. Pending Legislative Review.

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, Martin and Northampton counties.

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

(c) Bag limits shall be:

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

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

*History Note: Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305;
 Eff. February 1, 1976;
 Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995;
 July 1, 1994; April 14, 1992;
 Temporary Amendment Eff. July 1, 1999;
 Amended Eff. July 1, 2000;
 Temporary Amendment Eff. July 1, 2002;
 Amendment Eff. August 1, 2002;
 Temporary Amendment Eff. September 1, 2003;
 Temporary Amendment Expired Eff. December 27, 2003;
 Amended Eff. May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

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

(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 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, Moore, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Richmond**, Robeson, Sampson, Scotland**, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson counties.

*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 January 1 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) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Swain, Transylvania, and Yancey counties.

(D) Two Saturdays before Thanksgiving through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties.

(E) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank

- counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (F) Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford counties, except for South Mountain Game Land.
- (2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph: (Refer to 15A NCAC 10D .0103 for either sex seasons on Game Lands):
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Youth either sex deer hunts. First Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission and the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission.
- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Buncombe, *Haywood, Henderson, Madison and Transylvania counties** and the following parts of counties:
Avery: That part south of the Blue Ridge Parkway; 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) The last six open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Burke, Caldwell, McDowell, Mitchell, Polk and the following parts of counties:
Avery: That part north of the Blue Ridge Parkway;
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 (a)(1) of this Rule in all of Cleveland and Rutherford counties.
- (G) All the open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in and east of Ashe, Watauga, Wilkes, Alexander, Catawba, Lincoln and Gaston 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; and

Henderson. That part east of NC 191 and north and west of NC 280.

(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 (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 third Friday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (a)(1) of this Rule, except on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands.
- (B) Saturday on or nearest September 10 to the third Friday before Thanksgiving in the counties and parts of counties having the open seasons for Deer with Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule except for that portion of Buffalo Cove Game Land in Wilkes County.
- (C) Monday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (C) of Subparagraph (a)(1) of this Rule and in Cleveland and Rutherford counties.
- (D) Saturday on or nearest September 10 to the fourth 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.

(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 bow and arrow during the following seasons:

- (A) The Saturday on or nearest October 1 to the Friday of the second week thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (A) of Subparagraph (a)(1) of this Rule, except on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.
- (B) The third Saturday preceding Thanksgiving until the Friday of the second week thereafter in the counties* and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (a)(1) of this Rule.
*Refer to 15A NCAC 10D .0103(h) for seasons on Buffalo Cove game land.
- (C) Monday on or nearest October 1 to the Saturday of the second week thereafter in Cleveland and Rutherford counties and in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part C of Subparagraph (a)(1) of this Rule.
- (D) The fourth Saturday preceding Thanksgiving until the Friday of the second week thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (a)(1) of this Rule, and on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.

(2) Restrictions

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

- (C) Pistols shall not be carried while hunting deer during the muzzle-loading firearms and bow and arrow seasons.

(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 (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.

(e) 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 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) of Subparagraph (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. Hunters may also use the bonus antlerless harvest report cards for deer harvested during the season described in Paragraph (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. Season bag limits shall be set by the number of DMAP tags issued and in the hunters'

possession. All deer harvested under this program, regardless of the date of harvest, shall be tagged with these DMAP tags and reported as instructed on the DMAP license. The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting 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.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2;
Eff. February 1, 1976;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996, July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2002; July 1, 2001;
Amended Eff. August 1, 2002 (Approved by RRC on 06/21/01 and 04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. June 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005;
Amended Eff. Pending Legislative Review.

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. 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.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; May 1, 2007; July 1, 1999; July 1, 1995; July 1, 1993; July 1, 1987; July 1, 1986.

15A NCAC 10B .0206 SQUIRRELS

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

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

(b) Bag Limits:

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

History Note Authority G.S. 113-134; 113-291.2; Eff. February 1, 1976; Amended Eff. May 1, 2009; May 1, 2008; May 1, 2006; July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985.

15A NCAC 10B .0209 WILD TURKEY

(a) Open Seasons:

- (1) Spring Wild Turkey Season shall be from the second Saturday in April through the Saturday of the fourth week thereafter on bearded or male turkeys only in all counties statewide.
- (2) 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.

(b) Bag Limits: The daily bag limit shall be one bird and the annual bag limit shall be two birds. Possession limit is two birds.

(c) Dogs: The use of dogs for hunting wild turkeys is prohibited.

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

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003;

Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2009; May 1, 2007; November 1, 2005.

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	Henderson
Clay	Macon
Graham	Tyrrell

- (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.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.4; Eff. February 1, 1976; Amended Eff. July 1, 1987; December 1, 1985; Temporary Amendment Eff. November 1, 1989; Amended Eff. July 1, 1994; May 1, 1990; Temporary Amendment Eff. July 1, 1999; Amended Eff. May 1, 2009; July 1, 2000.

15A NCAC 10B .0215 CROWS

(a) Open Seasons: Wednesday, Friday and Saturday of each week from the first Wednesday in June to the last day of February and on the following holidays: July 4, Labor 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.

History Note: Authority G.S. 113-134; 113-291.2; 50 C.F.R. 20.133; Eff. February 1, 1976; Amended Eff. May 1, 2009; May 1, 2006; June 1, 2005; July 1, 1991; July 1, 1987; July 1, 1984; July 1, 1983.

15A NCAC 10B .0302 OPEN SEASONS

General. Following are the 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.

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

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;

Eff. February 1, 1976;

Amended Eff. July 1, 1996; July 1, 1984; July 1, 1983; August 1, 1982; August 1, 1981;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. June 1, 2003;

Amended Eff. May 1, 2009; November 1, 2008; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005; August 1, 2004.

15A NCAC 10B .0303 BAG LIMITS

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

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

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

Eff. August 1, 1977;

Amended Eff. May 1, 2009; May 1, 2008; June 1, 2005; July 1, 1996; July 1, 1984.

15A NCAC 10B .0404 TRAPPERS AND HUNTERS

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

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

- (1) A person may transport the same from the place of taking to his North Carolina residence and from his North Carolina residence to a fur tag agent or taxidermist's place of business.
- (2) A person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.

(3) The carcass, pelt or mounted specimen is exempt from tagging requirements while in the taxidermist's place of business or after the mount is completed.

(4) A licensed trapper may take live foxes during any legal trapping season, except foxes taken under G.S. 113-291.4, without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

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, the hunter or trapper taking any such fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with a proper tag before selling or transferring the same to any other person, or transporting the same for any purpose than as authorized by Paragraph (a) of this Rule.

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

Eff. November 14, 1978;

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

Amended Eff. Pending Legislative Review.

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.

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

Eff. January 1, 1992;

Amended Eff. June 1, 2004;

Amended Eff. Pending Legislative Review.

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)
 - 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 (Lost Cove Creek) to 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)

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)

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)

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)

Jonathan Creek (upstream SR 1302 bridge to Pigeon River, except where posted against trespass)

- Richland Creek (Russ Avenue (US 276) bridge to 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)
 (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 1582)
 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)
- (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 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.]
- (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 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.]
- (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 (Gladys 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)	Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
	South New Fork River (not trout water)	
	Meat Camp Creek	Middle Prong Roaring River (headwaters to second bridge on SR 1736)
	Norris Fork Creek	Bell Branch Pond
	Howard Creek (downstream from lower falls)	Boundary Line Pond
	Middle Fork New River (Lake Chetola Dam to South Fork New River)	West Prong Roaring River (not trout waters)
	Yadkin River (not trout water)	Pike Creek
	Stony Fork (headwaters to Wilkes County line)	Pike Creek Pond
	Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)	Cub Creek (0.5 miles upstream of SR 2460 bridge to SR 1001 bridge)
	Watauga River (adjacent to the intersection of SR 1557 and SR 1558 to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crucis). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]	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.]
	Beech Creek	Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
	Buckeye Creek Reservoir	South Fork Reddies River (headwaters to confluence with Middle Fork Reddies River)
	Coffee Lake	North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
	Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of SR 1201 and SR 1203)	Darnell Creek (North Prong Reddies River) (downstream ford on SR 1569 to confluence with North Fork Reddies River)
	Laurel Creek	Lewis Fork Creek (not trout water)
	Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)	South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
	Dutch Creek (second bridge on SR 1134 to mouth)	Fall Creek (except portions posted against trespass)
(X)	Wilkes County:	(Y) Yancey County:
	Yadkin River (not trout water)	Nolichucky 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	

- 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)
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) Graham County:
Little Buffalo Creek (entire stream)
South Fork Squally Creek (entire stream)
Squally Creek (entire stream)
- (I) Haywood County:

- Hemphill Creek [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of the 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) 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)
- (K) 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.]
- (L) 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)
- (M) Transylvania County:
All waters located on Gorges State Park
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (N) 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)
- (O) 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)
- (P) Yancey County:
Cattail Creek (Bridge at Mountain Farm Community Road (Private) to NC 197 bridge)
Licksillet Creek (entire stream)
Middle Creek (game land boundary to mouth)
- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be

used. No fish may be harvested or be in possession while fishing these streams:

- (A) Ashe County:
Big Horse Creek (Virginia State line to Mud Creek at SR 1363 excluding tributaries)
Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Lands)
 - (B) Avery County:
Wilson Creek (game land portion)
 - (C) Buncombe County:
Carter Creek (game land portion)
 - (D) Burke County:
Henry Fork (portion on South Mountains State Park)
 - (E) Jackson County:
Flat Creek
Tuckasegee River (upstream of Clarke property)
 - (F) McDowell County:
Newberry Creek (game land portion)
 - (G) Watauga County:
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
Laurel Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
 - (H) Wilkes County:
Dugger Creek (portions on Laurelmor development, including tributaries. Anglers must check in at Laurelmor security office on Triplett Rd. prior to fishing)
Harris Creek (portion on Stone Mountain State Park)
 - (I) Yancey County:
Lower Creek
Upper Creek
- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:
Elk River (portion on Lees-McRae College property, excluding the millpond)
 - Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
 - (B) Transylvania County:
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
 - (C) Yancey County:
South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Big Lost Cove Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 October and one-half hour after sunset on the Friday before the first Saturday of the following June, inclusive, it is unlawful to possess natural bait, use more than a single hook on an artificial lure, or harvest or possess trout while fishing these waters. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these waters are open for fishing under Hatchery Supported Waters rules for youth anglers only. Youth is defined as a person under 16 years of age. At 12:00 p.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters rules for all anglers:
- (A) Ashe County:
Trout Lake
Helton Creek (Virginia state line to New River)
 - (B) Burke County:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
 - (C) Caldwell County:
Wilson Creek (portion from Lost Cove Creek to Phillips Branch)
 - (D) Haywood County:
West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
 - (E) Henderson County:
North Fork Mills River (game land portion below the Hendersonville watershed dam)
 - (F) Jackson County:

- (G) Tuckasegee River (NC 107 bridge at Love Field Downstream to the Dillsboro dam)
Macon County:
Nantahala River (Whiteoak Creek to the Nantahala hydropower discharge canal)
- (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)
- (I) McDowell County:
Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch
Mill Creek (US70 bridge to I 40 bridge)
- (J) Mitchell County:
Cane Creek (NC 226 bridge to NC 80 bridge)
North Toe River (US 19E bridge to NC 226 bridge)
- (K) Polk County:
Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- (L) Surry County:
Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
- (M) Transylvania County:
East Fork French Broad River (Glady Fork to French Broad River)
Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls)
- (N) Watauga County:
Watauga River (adjacent to intersection of SR 1557 and SR 1558 to NC 105 bridge and SR 1114 bridge to NC 194 bridge at Valle Crucis)
- (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) Graham County:
Deep Creek
Long Creek (game land portion)
- (C) Haywood County:
Hemphill Creek (including tributaries)
Hurricane Creek (including portions of tributaries on game lands)
- (D) 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)
- (E) 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)
- (F) Madison County:
Big Creek (headwaters to the lower game land boundary, including tributaries)
- (G) Transylvania County:
North Fork French Broad River (game land portions downstream of SR 1326)
Thompson River (SR 1152 to South Carolina state line, except where posted against trespass, including portions of tributaries within this section located on game lands)

- (7) Special Regulation Trout Waters. Those portions of Designated Public Mountain Trout Waters as listed in this Subparagraph, excluding tributaries as noted, are further classified as Special Regulation Trout Waters. Regulations specific to each water are defined below:

Burke County
Catawba River (Muddy Creek to City of Morganton water intake dam).

Regulation: The daily creel limit is 7 trout and only one of which may be greater than 14 inches in length; no bait restrictions; no closed season.

(b) Fishing in Trout Waters

- (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0104(b)(1)].
- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (a)(3), (a)(4), and (a)(6) of this Rule, the following rules apply to fishing in wild trout waters.
- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.
- (D) Manner of Taking. Only artificial lures having only one single hook

may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).

- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

History Note: Authority G.S. 113-272; 113-292;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. July 1, 2001;

Temporary Amendment Eff. July 1, 2002;

Amended Eff. August 1, 2002 (approved by RRC) on 6/21/01 and 04/18/02);

Temporary Amendment Eff. June 1, 2003;

Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17 2003);

Amended Eff. May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

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 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.

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

Eff. February 1, 1976;

Amended Eff. May 1, 2009; August 1, 2004; July 1, 1993; July 1, 1989; July 1, 1985; July 1, 1984.

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

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

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in.	ALL YEAR (exc. (3))
Hatchery Supported Trout Waters and undesignated waters	7 (exc. (3))	None (exc. (3))	All year, except March 1 to 7:00 a.m. on first Saturday in April (exc. (3))

APPROVED RULES

Muskellunge	2 (exc. (21))	30 in. (exc. (21))	ALL YEAR
Pickarel: Chain 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. 14,20&24)	ALL YEAR (exc. (7))

(b) Exceptions

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| (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. | | 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. |
| (2) | In the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment and in Gaston, Roanoke Rapids and B. Everett Jordan reservoirs the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches. In Lake Norman the creel limit on striped bass and Morone hybrids is four in aggregate with a minimum size limit is 16 inches from October 1 through May 31 and no minimum size limit from June 1 through September 30. | (4) | On Mattamuskeet Lake, special federal regulations apply. |
| (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) | (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.
- (6) In the inland and joint fishing waters [as identified in 15A NCAC 10C .0107(1)(e)] of the Roanoke River Striped Bass Management Area, which includes the Roanoke, Cashie, Middle and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and their hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season the daily creel limit for striped bass and their hybrids is two fish in aggregate, the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be retained in the daily creel limit. Only one fish larger than 27 inches may be retained in the daily creel limit.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, Reedy Creek Park lakes in Mecklenburg County, Lake Rim in Cumberland County, Lake Raleigh in Wake County, Randleman Reservoir in Randolph and Guilford counties, Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other public fishing waters east of Interstate 95 (except Tar River Reservoir in Nash County), South Yadkin River downstream of Cooleemee Dam, Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery and Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir, in Falls of the Neuse Reservoir to Lake Michie Dam on the Flat River and to the mouth of Cub Creek on Eno River, Cane Creek Lake in Union County, and Buckhorn Reservoir in Wilson and Nash counties the minimum size limit for largemouth bass is 16 inches, with no exception. In Lake Phelps and Shearon Harris Reservoir no black bass between 16 and 20 inches shall be possessed.
- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The minimum size limit for all black bass, with no exception, is 18 inches in Lake Thom-A-Lex in Davidson County.
- (11) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (4), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (12) A daily creel limit of 20 fish and a minimum size limit of 10 inches apply to crappie in B. Everett Jordan Reservoir 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 Hyco, Lake Ramseur, Cane Creek Lake, 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, Sutton Lake in New Hanover 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) 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.
- History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305;*
Eff. February 1, 1976;
Temporary Amendment Eff. May 10, 1990, for a period of 180 days to expire on November 1, 1990;
Temporary Amendment Eff. May 22, 1990, for a period of 168 days to expire on November 1, 1990;
Temporary Amendment Eff. May 1, 1991, for a period of 180 days to expire on November 1, 1991;
Amended Eff. July 1, 1994; July 1, 1993; October 1, 1992;
Temporary Amendment Eff. December 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995;
Temporary Amendment Eff. November 1, 1998;
Amended Eff. April 1, 1999;
Temporary Amendment Eff. July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2001;
Temporary Amendment Eff. March 8, 2002 [This rule replaces the rule proposed for permanent amendment effective July 1, 2002 and approved by RRC in May 2001];
Amended Eff. August 1, 2002 (approved by RRC in April 2002);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. May 1, 2009; July 1, 2008; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.
- 15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE**
- (a) Except as permitted by the rules in this Section, it shall be unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, with the following exceptions:
- (1) Blue crabs shall have a minimum carapace width of five inches (point to point) and it is unlawful to possess more than 50 crabs per person per day or to exceed 100 crabs per vessel per day.
- (2) No person shall take or possess herring (alewife and blueback) that are greater than six

inches in length from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River including Drowning Creek, and in all other inland fishing waters east of Interstate 95.

- (3) Grass carp shall not be taken or possessed on Lake James, Lookout Shoals Lake, Lake Norman, Mountain Island, Lake Wylie, Gaston and Roanoke Rapids reservoirs, except that 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) Size and creel limits as set in these Rules 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 Lake Norman and Badin Lake, the daily creel limit for blue catfish greater than 32 inches is one fish.

History Note: Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976;

Amended Eff. July 1, 1994; July 1, 1993; May 1, 1992;

Temporary Amendment Eff. December 1, 1994;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

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

Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);

Temporary Amendment Eff. June 1, 2003;

Amended Eff. May 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

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. 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 permit hunts for disabled sportsmen 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.

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

Eff. February 1, 1976;

Amended Eff. July 1, 1993; April 1, 1992;

Temporary Amendment Eff. October 11, 1993;

Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. August 1, 2002;

Amended Eff. June 1, 2004; (this amendment replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; November 1, 2005.

15A NCAC 10D .0103 HUNTING ON GAME LANDS

(a) Safety Requirements. No person while hunting on any designated game land shall be under the influence of alcohol or any narcotic drug, or fail to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, gates or otherwise prevent vehicles from using any roadway.

(c) Tree Stands. It is unlawful to erect or to occupy, for the purpose of hunting, any tree stand or platform attached by nails, screws, bolts or wire to a tree on any game land designated herein. This prohibition shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On managed waterfowl

impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys shall not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone." No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or wild birds shall be removed from any game land.

(e) Definitions:

- (1) For purposes of this Section, "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.
- (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.
- (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 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 Bay Game Land in 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.
 - (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.

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| <p>(7) Brinkleyville Game Land in Halifax County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable deer with visible antlers season.</p> <p>(C) Horseback riding, including all equine species, is prohibited.</p> <p>(8) Brunswick County Game Land in Brunswick County: Permit Only Area</p> <p>(9) Buckhorn Game Land in Orange County</p> <p>(A) Hunting is by permit only.</p> <p>(B) Horseback riding, including all equine species, is prohibited.</p> <p>(10) Buckridge Game Land in Tyrrell County.</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) 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.</p> <p>(11) Buffalo Cove Game Land in Caldwell and Wilkes Counties</p> <p>(A) Six Days per Week Area</p> <p>(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 third 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 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season.</p> <p>(C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.</p> <p>(12) Bullard and Branch Hunting Preserve Game Lands in Robeson County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six</p> | <p>open days of the applicable Deer With Visible Antlers Season.</p> <p>(13) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas, New Year's and Martin Luther King, Jr. Days and on the opening and closing days of the applicable waterfowl seasons. On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.</p> <p>(D) Horseback riding, including all equine species, is prohibited.</p> <p>(E) Target shooting is prohibited</p> <p>(F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.</p> <p>(G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.</p> <p>(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.</p> <p>(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.</p> <p>(14) Buxton Woods Game Land in Dare County:</p> <p>(A) Six Days per Week Area.</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(15) Cape Fear River Wetlands Game Land in Pender County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.</p> <p>(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.</p> |
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- (16) Carteret County Game Land in Carteret County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs for hunting deer is prohibited.
- (17) R. Wayne Bailey-Caswell Game Land in Caswell County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season with any legal weapon by participants in the Disabled Sportsman Program who acquire special hunt permits.
 - (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
 - (D) 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.
 - (E) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
 - (F) 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) Catawba Game Land in Catawba County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (19) 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.
- (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) 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) Waterfowl shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Dove hunting is by permit only from opening day through the following Saturday of the first segment of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- (26) 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) No hunting on posted parts of bombing range.
 - (D) 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 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 Halifax and Warren counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding, including all equine species, is prohibited.
- (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) 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) 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) 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.
- (G) 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) 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, 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) 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.
- (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.
 - (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.
 - (G) 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.
- (H) 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) 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) 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.
- (42) Juniper Creek Game Land in Brunswick 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
- (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) Hunting on posted waterfowl impoundments is by permit only.
- (G) 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) Wild turkey hunting is by permit only.
- (D) The use of dogs for hunting deer on the Godley Tract is prohibited.
- (E) 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) 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 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.
- (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) 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) 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) 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 fourth Friday before Thanksgiving.
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter.
- (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.
- (H) 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 Camden and Currituck 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.

- (57) 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.
- (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.
 - (D) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
 - (E) Target shooting is prohibited.
- (59) 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.
 - (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
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (62) Rhodes Pond Game Land in Cumberland and Harnett counties
 - (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, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.
- (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 fourth Friday before Thanksgiving.
 - (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter.
 - (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.
- (67) Rocky Run Game Land in Onslow County: 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 fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter, 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 third Sunday in September through the remainder of the hunting season.
- (G) Opossum, raccoon and squirrel (fox and gray) hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
- (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part east of east of SR 1001 and west of US 15/501.
- (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited unless riding in authorized field trials.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (70) Sandy Creek Game Land in Nash and Franklin Counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- (71) Sandy Mush Game Land in Buncombe and Madison counties.
- (A) Three Days per Week Area
- (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (C) Dogs shall 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, 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) 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 third 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 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- (75) Stones Creek Game Land in Onslow County
- (A) Six-Day per Week Area.
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season
- (C) Swimming in all lakes is prohibited.
- (D) Waterfowl on posted waterfowl impoundments may be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (76) Suggs Mill Pond Game Land in Bladen 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) Sutton Lake Game Land in New Hanover and Brunswick counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Target shooting is prohibited.
- (78) Tar River Game Land in Edgecombe County -
- hunting is by permit only.
- (79) Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding including all equine species is prohibited.
- (80) Thurmond Chatham Game Land in Alleghany and Wilkes 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 the 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. Participants must obtain a game lands license prior to horseback riding on this area.
- (D) 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) Horseback riding, including all equine species, is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- (E) Wild turkey hunting is by permit only.
- (82) Toxaway Game Land in Jackson 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. 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 bow and arrow 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) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (85) Van Swamp Game Land in Beaufort and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (86) White Oak River Game Land in Onslow County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Beginning on the first open waterfowl season day in October and through the end of the waterfowl season, a permit is required for hunting posted waterfowl impoundments.
- (E) The Huggins Tract is a Restrictive Firearms zone with the following restrictions:
- (i) Access on Hargett Avenue requires a valid Hunting Opportunity Permit;
- (ii) Hunting is by permit only; and
- (iii) The use of dogs for hunting deer is prohibited.
- (F) 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.

History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305; 113-296;
Eff. February 1, 1976;
Temporary Amendment Eff. October 3, 1991;
Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996;
September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;
Temporary Amendment Eff. October 1, 1999; July 1, 1999;
Amended Eff. July 1, 2000;
Temporary Amendment Eff. July 1, 2002; July 1, 2001;
Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);
Temporary Amendment Eff. June 1, 2003;
Amended Eff. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003);
Amended Eff. May 1, 2009; May 1, 2008; May 1, 2007; October 1, 2006; August 1, 2006; May 1, 2006; February 1, 2006, June 1, 2005; October 1, 2004.

15A NCAC 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, "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.
- (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.
- (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 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 Bay Game Land in 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.
- (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) 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) 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 third 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 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season.
- (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (12) 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) Waterfowl shall be taken only on Tuesdays, Thursdays and Saturdays; Christmas, New Year's and Martin Luther King, Jr. Days and on the opening and closing days of the applicable waterfowl seasons. 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.
- (14) Buxton Woods Game Land in Dare 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.
- (15) Cape Fear River Wetlands Game Land in Pender County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
 - (D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road and south of NC 210 to the Black River.
- (16) Carteret County Game Land in Carteret County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs for hunting deer is prohibited.
- (17) R. Wayne Bailey-Caswell Game Land in Caswell County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle-loading season with any legal weapon by participants
- (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) 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.
- (E) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.
- (F) 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) Catawba Game Land in Catawba County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (19) 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.
- (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) 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) Waterfowl shall be taken only on the following days:
- (i) the opening and closing days of the applicable waterfowl seasons;
- (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
- (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (D) Dove hunting is by permit only from opening day through the following Saturday of the first segment of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.
- (26) 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) No hunting on posted parts of bombing range.
- (D) 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 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 Halifax and Warren counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding, including all equine species, is prohibited.
- (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) 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) 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) 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.
 - (G) 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) 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, 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) 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.
- (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.
 - (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.
 - (G) 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.
 - (H) 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) 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) 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.
- (42) Juniper Creek Game Land in Brunswick 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

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| <p>(43) Kerr Scott Game Land in Wilkes County</p> <p>(A) Six Days per Week Area</p> <p>(B) Use of centerfire rifles shall be prohibited.</p> <p>(C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season shall be prohibited.</p> <p>(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.</p> <p>(E) Deer of either sex may be taken on all open days of the applicable deer with visible antlers season.</p> <p>(F) Hunting on posted waterfowl impoundments is by permit only.</p> <p>(G) The use of firearms for hunting wild turkey is prohibited.</p> <p>(44) Lantern Acres Game Land in Tyrrell and Washington counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Wild turkey hunting is by permit only.</p> <p>(D) The use of dogs for hunting deer on the Godley Tract is prohibited.</p> <p>(E) Waterfowl hunting on posted waterfowl impoundments is by permit only.</p> <p>(45) Lee Game Land in Lee County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Target shooting is prohibited.</p> <p>(46) Light Ground Pocosin Game Land in Pamlico County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.</p> <p>(47) Linwood Game Land in Davidson County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.</p> <p>(48) Lower Fishing Creek Game Land in Edgecombe and Halifax counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Horseback riding, including all equine species, is prohibited.</p> | <p>(D) The use of dogs for hunting deer is prohibited.</p> <p>(49) Mayo Game Land in Person County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) 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.</p> <p>(D) Target shooting is prohibited.</p> <p>(50) Mitchell River Game Land in Surry County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six days of the applicable Deer with Visible Antlers Season.</p> <p>(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.</p> <p>(51) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.</p> <p>(52) Needmore Game Land in Macon and Swain counties.</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(53) Neuse River Game Land in Craven County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(54) New Lake Game Land in Hyde and Tyrrell counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(55) Nicholson Creek Game Land in Hoke County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken with bow and arrow on open hunting days</p> |
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- from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving.
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter.
- (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.
- (H) 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 Camden and Currituck 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.
- (57) 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.
- (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.
- (D) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
- (E) Target shooting is prohibited.
- (59) 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.
 - (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
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (62) Rhodes Pond Game Land in Cumberland and Harnett counties
- (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, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.
- (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 fourth Friday before Thanksgiving.
- (C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter.
- (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.
- (67) Rocky Run Game Land in Onslow County: 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 fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter, 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 third Sunday in September through the remainder of the hunting season.
- (G) Opossum, raccoon and squirrel (fox and gray) hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving and rabbit season on the field trial grounds will be from the Saturday preceding Thanksgiving through the Saturday following Thanksgiving.
- (H) The following areas are closed to all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part east of east of SR 1001 and west of US 15/501.
- (I) Horseback riding on field trial grounds from October 22 through March 31 shall be prohibited unless riding in authorized field trials.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and April 7 through May 14.
- (70) Sandy Creek Game Land in Nash and Franklin Counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding, including all equine species, is prohibited.

- (D) The use of dogs for hunting deer is prohibited.
- (71) Sandy Mush Game Land in Buncombe and Madison counties.
 - (A) Three Days per Week Area
 - (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
 - (C) Dogs shall 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, 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) 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 third 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 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season.
 - (C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
 - (E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse, quail and woodcock hunting and all bird dog training.
- (75) Stones Creek Game Land in Onslow County
 - (A) Six-Day per Week Area.
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season
 - (C) Swimming in all lakes is prohibited.
 - (D) Waterfowl on posted waterfowl impoundments may be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
- (76) Suggs Mill Pond Game Land in Bladen 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) Sutton Lake Game Land in New Hanover and Brunswick counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
- (78) Tar River Game Land in Edgecombe County - hunting is by permit only.
- (79) Three Top Mountain Game Land in Ashe County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding including all equine species is prohibited.
- (80) Thurmond Chatham Game Land in Alleghany and Wilkes 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 the 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. Participants must obtain a game lands license prior to horseback riding on this area.
- (D) 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) Horseback riding, including all equine species, is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (E) Wild turkey hunting is by permit only.
- (82) Toxaway Game Land in Jackson 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. 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 bow and arrow 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) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (85) Van Swamp Game Land in Beaufort and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (86) White Oak River Game Land in Onslow County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:
 - (i) the opening and closing days of the applicable waterfowl seasons;
 - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
 - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
 - (D) Beginning on the first open waterfowl season day in October and through the end of the waterfowl season, a permit is required for hunting posted waterfowl impoundments.
 - (E) The Huggins Tract is a Restrictive Firearms zone with the following restrictions:
 - (i) Access on Hargett Avenue requires a valid Hunting Opportunity Permit;
 - (ii) Hunting is by permit only; and

- (iii) The use of dogs for hunting deer is prohibited.
- (F) 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.

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

Eff. February 1, 1976;

Temporary Amendment Eff. October 3, 1991;

Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;

Temporary Amendment Eff. October 1, 1999; July 1, 1999;

Amended Eff. July 1, 2000;

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

Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);

Temporary Amendment Eff. June 1, 2003;

Amended Eff. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003);

Amended Eff. May 1, 2009; May 1, 2008; May 1, 2007; October 1, 2006; August 1, 2006; May 1, 2006; February 1, 2006, June 1, 2005; October 1, 2004.

15A NCAC 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 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, 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 in Ashe County

Nantahala National Forest Game Lands in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties.

Pisgah National Forest Game Lands in 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 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.

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

Eff. February 1, 1976;

Amended Eff. July 1, 2000; July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992;

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

Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);

Temporary Amendment Eff. June 1, 2003;

Amended Eff. May 1, 2009; August 1, 2004.

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 or impede the use by other persons of any ramp or other facility constructed for the purpose of launching or landing 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 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 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.

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

Eff. February 1, 1976;

Amended Eff. May 1, 2009; July 1, 1995; February 1, 1994; September 1, 1992; July 1, 1991.

15A NCAC 10H .0108 BIRD FEEDERS

(a) Purpose of Rule. The purpose of this Rule is to prescribe criteria governing the 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) 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.

(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 locations of such feeders shall be in the discretion of the hunting preserve operator.

History Note: Authority G.S. 113-134; 113-273;
Eff. September 30, 1979;
Amended Eff. May 1, 2009; November 1, 1990.

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

- (a) Conditions of use. A licensed controlled hunting preserve operator who releases pen-raised quail for hunting or dog training purposes may, between September 1 and April 30, 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.
- (b) Location of Traps. No quail call-pen trap shall be located within 100 yards of any external boundary of the hunting preserve.
- (c) Identification of Traps. All traps shall have a weather-resistant permanent tag attached with the propagator's name and address legibly written on it.

History Note: Authority G.S. 113-134; 113-291.1;
Eff. September 1, 1980;
Amended Eff. May 1, 2009; December 1, 1993; November 1, 1990; July 1, 1987.

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 use quail call-pen traps for the purpose of recovering such quail subject to the following restrictions:

- (1) All traps shall have a weather-resistant permanent tag attached with the propagator's name and address written legibly on it;
- (2) No such trap shall be located with 100 yards of any outside boundary of the premises;
- (3) All quail released for dog training shall be banded; and
- (4) No unbanded quail caught in any such trap shall be retained.

History Note: Authority G.S. 113-134; 113-273; 113-291.1;
Eff. January 1, 1981;
Amended Eff. May 1, 2009; July 1, 1987.

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.

History Note: Authority G.S. 113-274(c)(1c);
Eff. May 1, 2007;

Amended Eff. May 1, 2009.

**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; and
- (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; or
- (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) Exceptions.

- (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; and
- (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

- (B) 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. 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.

History Note: Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333; Eff. June 11, 1977; Amended Eff. May 1, 2009; April 1, 2003; April 1, 2001; April 1, 1997; February 1, 1994; September 1, 1989; March 1, 1981; March 17, 1978.

TITLE 16 – DEPARTMENT OF PUBLIC INSTRUCTION

16 NCAC 06C .0503 TEACHER EVALUATION PROCESS

- (a) The intended purpose of the North Carolina Teacher Evaluation Process is to assess the teacher's performance in relation to the North Carolina Professional Teaching Standards and to design a plan for professional growth. The principal or a designee (hereinafter "principal") shall conduct the evaluation process in which the teacher shall participate through the use of self-assessment, reflection, presentation of artifacts, and classroom demonstration(s).
- (b) A local board of education shall use the North Carolina Professional Teaching Standards and North Carolina Teacher Evaluation Process unless it develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those in the North Carolina Professional Teaching Standards and North Carolina Teacher Evaluation Process.
- (c) The North Carolina Teacher Evaluation Process shall include the following components:

- (1) Training. Before participating in the evaluation process, all teachers, principals and peer evaluators must complete training on the evaluation process.
- (2) Orientation. Within two weeks of a teacher's first day of work in any school year, the principal shall provide the teacher with a copy of or directions for obtaining access to a copy of:
 - (A) The Rubric for Evaluating North Carolina Teachers (16 NCAC 06C .0504);
 - (B) This policy; and
 - (C) A schedule for completing all the components of the evaluation process. Copies may be provided by electronic means.
- (3) Teacher Self Assessment. Using the Rubric for Evaluating North Carolina Teachers, the teacher shall rate his or her own performance at the beginning of the year and reflect on his or her performance throughout the year.
- (4) Pre-Formal Observation Conference. Before the first formal observation, the principal shall meet with the teacher to discuss the teacher's self-assessment based on the Rubric for Evaluating North Carolina Teachers, the teacher's most recent professional growth plan, and the lesson(s) to be observed. The teacher shall provide the principal with a written description of the lesson(s). The goal of this conference is to prepare the principal for the observation. Pre-Observation conferences are not required for subsequent observations.
- (5) Observations.
 - (A) A formal observation shall last at least 45 minutes.
 - (B) Probationary Teachers shall have at least three formal observations conducted by the principal and one formal observation conducted by a peer.
 - (C) Career Status Teachers shall be evaluated annually, unless the LEA establishes a different evaluation cycle for career teachers. During the year in which a career status teacher participates in a summative evaluation, the principal shall conduct at least three observations, including at least one formal observation. During observations, the principal and peer (in the case of a probationary teacher) shall note the teacher's performance in relationship to the applicable Standards on the Rubric for Evaluating North Carolina Teachers.

- (6) Post-Observation Conference. The principal shall conduct a post-observation conference no later than ten school days after each formal observation. During the post-observation conference, the principal and teacher shall discuss and document on the Rubric the strengths and weaknesses of the teacher's performance during the observed lesson.
- (7) Summary Evaluation Conference and Scoring the Teacher Summary Rating Form. Prior to the end of the school year and in accordance with LEA timelines, the principal shall conduct a summary evaluation conference with the teacher. During the summary evaluation conference, the principal and teacher shall discuss the teacher's self-assessment, the teacher's most recent Professional Growth Plan, the components of the North Carolina Teacher Evaluation Process completed during the year, classroom observations, artifacts submitted or collected during the evaluation process and other evidence of the teacher's performance on the Rubric. At the conclusion of the North Carolina Teacher Evaluation Process, the principal shall:
 - (A) Give a rating for each Element in the Rubric;
 - (B) Make a written comment on any Element marked "Not Demonstrated";
 - (C) Give an overall rating of each Standard in the Rubric;
 - (D) Provide the teacher with the opportunity to add comments to the Teacher Summary Rating Form;
 - (E) Review the completed Teacher Summary Rating Form with the teacher; and
 - (F) Secure the teacher's signature on the Record of Teacher Evaluation Activities and Teacher Summary Rating Form.
- (8) Professional Development Plans.
 - (A) Individual Growth Plans: Teachers who are rated at least "Proficient" on all the Standards on the Teacher Summary Rating Form shall develop an Individual Growth Plan designed to improve performance on specifically identified Standards and Elements.
 - (B) Monitored Growth Plans: A teacher shall be placed on a Monitored Growth Plan whenever he or she is rated "Developing" on one or more Standards on the Teacher Summary Rating Form and is not recommended for dismissal, demotion or nonrenewal. A Monitored Growth Plan shall, at a minimum, identify the Standards and Elements to be improved, the goals to be accomplished and the activities the teacher shall undertake to achieve Proficiency, and a timeline which allows the teacher one school year to achieve Proficiency. A Monitored Growth Plan that meets those criteria shall be deemed to satisfy the requirements of G.S. 115C-333(b).
- (C) Directed Growth Plans: A teacher shall be placed on a Directed Growth Plan whenever he or she is rated "Not Demonstrated" on any Standard on the Teacher Summary Rating Form or "Developing" on one or more Standards on the Teacher Summary Rating Form for two sequential years and is not recommended for dismissal, demotion or nonrenewal. The Directed Growth Plan shall, at a minimum, identify the Standards and Elements to be improved, the goals to be accomplished, the activities the teacher shall complete to achieve Proficiency, a timeline for achieving Proficiency within one school year or such shorter time as determined by the LEA. A Directed Growth Plan that meets those criteria shall be deemed to satisfy the requirements of G.S. 115C-333(b).
- (9) Effective Dates and Effect on Licensing and Career Status. Effective with the 2008-2009 school year, LEAs may evaluate teachers using this policy. Effective with the 2010-2011 school year, all teachers in North Carolina shall be evaluated using this policy unless a local board develops an alternative evaluation that is properly validated and that includes standards and criteria similar to those in the North Carolina Professional Teaching Standards and North Carolina Teacher Evaluation Process in which case the local board shall use that instrument.
 - (d) Beginning Teachers: Effective 2010-2011, beginning teachers must be rated "Proficient" on all five North Carolina Professional Teaching Standards on the most recent Teacher Summary Rating Form in order to be eligible for the Standard Professional 2 License.
 - (e) Probationary Teachers: Effective 2010-2011, a principal must rate a probationary teacher as "Proficient" on all five North Carolina Professional Teaching Standards on the most recent Teacher Summary Rating Form before recommending that teacher for career status.

History Note: Authority G.S. 115C-333; N.C. Constitution, Article IX, Sec. 5;

Eff. May 1, 2009.

16 NCAC 06C .0504 RUBRIC FOR EVALUATING TEACHERS

(a) Teachers shall be evaluated on the following Standards and Elements:

(1) Elements of Standard 1: Teachers demonstrate leadership.

(A) Teachers lead in their classrooms. Teachers demonstrate leadership by taking responsibility for the progress of all students to ensure that they graduate from high school, are globally competitive for work and postsecondary education, and are prepared for life in the 21st century. Teachers communicate this vision to their students. Using a variety of data sources, they organize, plan, and set goals that meet the needs of the individual student and the class. Teachers use various types of assessment data during the school year to evaluate student progress and to make adjustments to the teaching and learning process. They establish a safe, orderly environment, and create a culture that empowers students to collaborate and become lifelong learners.

(B) Teachers demonstrate leadership in the school. Teachers work collaboratively with school personnel to create a professional learning community. They analyze and use local, state, and national data to develop goals and strategies in the school improvement plan that enhances student learning and teacher working conditions. Teachers provide input in determining the school budget and in the selection of professional development that meets the needs of students and their own professional growth. They participate in the hiring process and collaborate with their colleagues to mentor and support teachers to improve the effectiveness of their departments or grade levels.

(C) Teachers lead the teaching profession. Teachers strive to improve the teaching profession. They contribute to the establishment of positive working relationships in the school. They actively participate in and advocate for the decision-making structures in education and government that take advantage of the

expertise of teachers. Teachers promote professional growth for all educators and collaborate with colleagues to improve the profession.

(D) Teachers advocate for schools and students. Teachers advocate for positive change in policies and practices affecting student learning. Teachers participate in the implementation of initiatives to improve the education of students.

(E) Teachers demonstrate high ethical standards. Teachers demonstrate ethical principles including honesty, integrity, fair treatment, and respect for others. Teachers uphold the Code of Ethics for North Carolina Educators and the Standards for Professional Conduct.

(2) Elements of Standard 2: Teachers establish a respectful environment for a diverse population of students.

(A) Teachers provide an environment in which each child has a positive, nurturing relationship with caring adults. Teachers provide an environment for student learning that is inviting, respectful, supportive, inclusive, and flexible.

(B) Teachers embrace diversity in the school community and in the world. Teachers demonstrate their knowledge of the history of diverse cultures and their role in shaping global issues. Teachers actively select materials and develop lessons that counteract stereotypes and incorporate histories and contributions of all cultures. Teachers recognize the influence of race, ethnicity, gender, religion, and other aspects of culture on a student's development and personality. Teachers strive to understand how a student's culture and background may influence his or her school performance. Teachers consider and incorporate different points of view in their instruction.

(C) Teachers treat students as individuals. Teachers maintain high expectations, including graduation from high school, for students of all backgrounds. Teachers appreciate the differences and value the contribution of each student in the learning environment by building positive, appropriate relationships.

- (D) Teachers adapt their teaching for the benefit of students with special needs. Teachers collaborate with the range of support specialists to help meet the special needs of all students. Through inclusion and other models of effective practice, teachers engage students to ensure that their needs are met.
 - (E) Teachers work collaboratively with the families and significant adults in the lives of their students. Teachers recognize that educating children is a shared responsibility involving the school, parents or guardians, and the community. Teachers improve communication and collaboration between the school, the home, and the community in order to promote trust and understanding and build partnerships with all segments of the school community. Teachers seek solutions to overcome cultural and economic obstacles that may stand in the way of effective family and community involvement in the education of their students.
- (3) Elements of Standard 3: Teachers know the content they teach.
- (A) Teachers align their instruction with the North Carolina Standard Course of Study. Teachers investigate the content standards developed by professional organizations in their specialty area. Teachers develop and apply strategies to make the curriculum rigorous and relevant for all students and provide a balanced curriculum that enhances literacy skills. Elementary teachers have explicit and thorough preparation in literacy instruction. Middle and high school teachers incorporate literacy instruction within the content area or discipline.
 - (B) Teachers know the content appropriate to their teaching specialty. Teachers bring a richness and depth of understanding to their classrooms by knowing their subjects beyond the content they are expected to teach and by directing students' natural curiosity into an interest in learning. Elementary teachers have broad knowledge across disciplines. Middle school and high school teachers have depth in one or more specific content areas or disciplines.
- (C) Teachers recognize the interconnectedness of content areas/disciplines. Teachers know the links and vertical alignment of the grade or subject they teach and the North Carolina Standard Course of Study. Teachers understand how the content they teach relates to other disciplines in order to deepen understanding and connect learning for students. Teachers promote global awareness and its relevance to subjects they teach.
 - (D) Teachers make instruction relevant to students. Teachers incorporate 21st century life skills into their teaching deliberately, strategically, and broadly. These skills include leadership, ethics, accountability, adaptability, personal productivity, personal responsibility, people skills, self-direction, and social responsibility. Teachers help their students understand the relationship between the North Carolina Standard Course of Study and 21st century content, which includes global awareness; financial, economic, business and entrepreneurial literacy; civic literacy; and health awareness.
- (4) Elements of Standard 4: Teachers facilitate learning for their students.
- (A) Teachers know the ways in which learning takes place, and they know the appropriate levels of intellectual, physical, social, and emotional development of their students. Teachers know how students think and learn. Teachers understand the influences that affect individual student learning (i.e. development, culture and language proficiency) and differentiate their instruction accordingly. Teachers keep abreast of evolving research about student learning. They adapt resources to address the strengths and weaknesses of their students.
 - (B) Teachers collaborate with their colleagues and use a variety of data sources for short and long range planning based on the North Carolina Standard Course of Study. These plans reflect an understanding of how students learn. Teachers engage students in the learning process. They understand that instructional plans must be consistently monitored and modified to enhance learning.

- Teachers make the curriculum responsive to cultural differences and individual learning needs.
- (C) Teachers use a variety of instructional methods. Teachers choose the methods and techniques that are most effective in meeting the needs of their students as they strive to eliminate achievement gaps. Teachers employ a wide range of techniques including information and communication technology, learning styles, and differentiated instruction.
- (D) Teachers integrate and utilize technology in their instruction. Teachers know when and how to use technology to maximize student learning. Teachers help students use technology to learn content, think critically, solve problems, discern reliability, use information, communicate, innovate, and collaborate.
- (E) Teachers help students develop critical-thinking and problem-solving skills. Teachers encourage students to ask questions; think creatively; develop and test innovative ideas; synthesize knowledge and draw conclusions. They help students exercise and communicate sound reasoning; understand connections; make complex choices; and frame, analyze, and solve problems.
- (F) Teachers help students work in teams and develop leadership qualities. Teachers teach the importance of cooperation and collaboration. They organize learning teams in order to help students define roles, strengthen social ties, improve communication and collaborative skills, interact with people from different cultures and backgrounds, and develop leadership qualities.
- (G) Teachers communicate effectively. Teachers communicate in ways that are clearly understood by their students. They are perceptive listeners and are able to communicate with students in a variety of ways even when language is a barrier. Teachers help students articulate thoughts and ideas clearly and effectively.
- (H) Teachers use a variety of methods to assess what each student has learned. Teachers use multiple indicators, including formative and summative assessments, to evaluate student progress and growth as they strive to eliminate achievement gaps. Teachers provide opportunities, methods, feedback, and tools for students to assess themselves and each other. Teachers use 21st century assessment systems to inform instruction and demonstrate evidence of students' 21st century knowledge, skills, performance, and dispositions.
- (5) Elements of Standard 5: Teachers reflect on their practice.
- (A) Teachers analyze student learning. Teachers think systematically and critically about student learning in their classrooms and schools as to why learning happens and what can be done to improve achievement. Teachers collect and analyze student performance data to improve school and classroom effectiveness. They adapt their practice based on research and data to best meet the needs of students.
- (B) Teachers link professional growth to their professional goals. Teachers participate in continued, high quality professional development that reflects a global view of educational practices; includes 21st century skills and knowledge; aligns with the State Board of Education priorities; and meets the needs of students and their own professional growth.
- (C) Teachers function effectively in a complex, dynamic environment. Understanding that change is constant, teachers actively investigate and consider new ideas that improve teaching and learning. They adapt their practice based on research and data to best meet the needs of their students.
- (b) For each Standard and Element, the teacher's performance shall be identified as:
- (1) Developing. Teacher demonstrated adequate growth toward achieving standard(s) during the period of performance, but did not demonstrate competence on standard(s) of performance.
- (2) Proficient. Teacher demonstrated basic competence on standard(s) of performance.
- (3) Accomplished. Teacher exceeded basic competence on standard(s) of performance most of the time.
- (4) Distinguished. Teacher consistently and significantly exceeded basic competence on standard(s) of performance.

- (5) Not Demonstrated. Teacher did not demonstrate competence on or adequate growth toward achieving standard(s) of performance. (Note: If the "Not Demonstrated" rating is used, the principal must comment about why such rating was used.)

History Note: Authority G.S. 115C-333; N.C. Constitution, Article IX, Sec. 5; Eff. May 1, 2009.

TITLE 17 – DEPARTMENT OF REVENUE

17 NCAC 07B .1202 SUPPLIES AND EQUIPMENT

Sales to hotels, motels, inns, tourist camps, and tourist cabins and other places in which rooms, lodgings or accommodations are furnished for a consideration, of any supplies, equipment, or fixtures including but not limited to beds, bedding, bathroom supplies and furniture are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; Eff. February 1, 1976; Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .1705 HOUSING AUTHORITIES

Sales of taxable tangible personal property to housing authorities created and existing under Chapter 157 of the North Carolina General Statutes for use in carrying on their activities are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; Eff. February 1, 1976; Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; August 1, 1988; March 1, 1984.

17 NCAC 07B .1804 OXYGEN

Sales of oxygen and oxygen dispensing equipment to hospitals, sanitariums, nursing homes or rest homes for use in administering oxygen to patients are subject to the applicable statutory state and local sales or use tax. Sales of oxygen on written prescription of a physician or dentist are exempt from sales tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; Eff. February 1, 1976; Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; January 1, 1982.

17 NCAC 07B .1805 HOSPITAL SUPPLIES

Sales of linens, soap, toilet paper, kleenex-type tissues, and other supplies to sanitariums, hospitals and similar institutions and businesses for use are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; Eff. February 1, 1976; Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .1903 TIRE REPAIR MATERIALS

Recappers making minor repairs to tires and tubes such as applying shoes, patches, or plugs are rendering a service, and receipts therefrom are not subject to sales or use tax. Recappers are liable for remitting the tax on the cost price of shoes, patches, plugs, valves, dust caps and similar items of tangible personal property used in making such repairs. The tax due shall be remitted to the recappers' suppliers at the time of purchase unless the tire recappers also engage in the business of selling such items separate and apart from the rendition of services and make the purchases under a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E. If the property is purchased under a certificate of exemption and subsequently withdrawn from inventory for use by the recappers in rendering such services, the tax is due on the cost price of the property when it is withdrawn from inventory for use.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; Eff. February 1, 1976; Amended Eff. May 1, 2009; October 1, 1993.

17 NCAC 07B .1904 SALES BY TIRE RECAPPERS

Sales of shoes, valves, dust caps and similar items separate and apart from the rendition of services are subject to sales or use tax. When registered tire recappers purchase such tangible personal property for resale to their customers, their suppliers shall obtain a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, in connection with such sales. If the items that tire recappers generally purchase for use are purchased by them for the purpose of resale to other recappers, their suppliers shall secure a certificate of exemption with each such sale to support the claim for the exemption from the retail tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46; Eff. February 1, 1976; Amended Eff. May 1, 2009; October 1, 1993.

17 NCAC 07B .2103 PROPANE SOLD TO SCHOOLS

Sales of propane gas to public and private schools for use or consumption are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .2105 AVIATION FUEL

Sales of aviation gasoline and other aviation fuel to users or consumers in this state are subject to the applicable statutory state and local sales or use tax. The federal tax on aviation gasoline or other aviation fuels which is levied by Chapter 32, Section 4081, of the Internal Revenue Code and the federal super fund tax are imposed on gasoline sold by any producer, terminal operator or importer of gasoline and shall be included in the sales price of aviation gasoline on which North Carolina sales tax is due. The federal tax on noncommercial aviation gasoline and the federal tax on liquids sold for use or used for fuel in noncommercial aviation as levied by the provisions of Chapter 31, Section 4041, of the Internal Revenue Code, are taxes imposed at the retail level and these taxes are not includable in the sales price upon which North Carolina sales tax is due.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; October 1, 1990; January 3, 1984.

17 NCAC 07B .2201 FOOD AND FOOD PRODUCTS

(a) General. - All retail sales of food or food products are subject to applicable statutory State and local sales or use tax unless a statute exempts the sales from tax. G.S. 105-164.13B lists the food that is exempt from State tax, but not the two percent local tax.

(b) Exempt Cafeteria Food. - The schools, institutions, and organizations whose sales of food and meals are exempt under G.S. 105-164.13(26), (26a), or (27) are not required to register with the Department. Therefore, unless one of these entities is otherwise required to register with the Department by reason of making other sales or purchases subject to the sales or use tax, it cannot furnish a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, to its suppliers. When making purchases of food to be sold, one of these entities that is not registered must give the supplier information to the effect that the food purchased is to be sold by the entity's school cafeteria or dining room, and the supplier must enter this information on its records and on the sales invoices. Otherwise, the transactions may be subject to the tax. Registered schools, institutions, and organizations must furnish a properly executed Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, to a supplier to purchase food without paying tax on the purchase.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-467; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;

Amended Eff. May 1, 2009; August 1, 2002; May 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; February 1, 1986; May 11, 1979.

17 NCAC 07B .2202 DISPOSABLE LUNCHROOM SUPPLIES

Sales to school lunchrooms and dining rooms of disposable items such as paper cups, paper napkins and drinking straws which actually contain or otherwise accompany the sale or service of the food and which are actually used by the students in consuming the meals are exempt from the tax. This exemption does not include brooms, mops, soaps, chinaware, silverware and other equipment or supplies, and sales of this nature are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .2204 MEALS ON TRAINS: PLANES: ETC.

Sales of prepared foods or meals by railroads, Pullman cars, steamships, airlines or other transportation company diners, while within this state, are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .2205 CATERERS

All charges by persons engaged in the catering business that are connected with the furnishing, preparing or serving of meals, foods, and other tangible personal property to users or consumers are subject to the applicable statutory state and local sales or use tax. If such persons perform other services that are not a part of the charges for the furnishing, preparing or serving of meals, foods, and other tangible personal property, the charges for such services rendered are exempt from tax provided such charges are separately stated from the charges for the tangible personal property on the invoice given to the customer at the time of the sale and in the vendor's records; otherwise, the total amount is subject to the tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; July 5, 1980.

17 NCAC 07B .2207 FOOD SERVICE SUPPLIES

Paper doilies, paper place mats, paper coasters, paper napkins, drinking straws and similar disposable items which become a part of the sale or service of food and are expended by customers

in consuming their meals are exempt from sales or use tax when sold to school lunchrooms, restaurants, cafes, cafeterias and other such places of business selling and serving prepared meals and foods. Sales of plastic or cloth place mats, cork, plastic or china coasters, china, silverware, cloth napkins, tablecloths or other reusable items to restaurants, cafes, cafeterias and other similar places of business for use in serving meals and not for resale are subject to the applicable statutory state and local sales or use tax. Sales of patty paper and paper containers to restaurants for use in storing food are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991;
July 5, 1980.

17 NCAC 07B .2208 FRATERNITY AND SORORITY MEALS

Fraternities and sororities are considered to be student organizations within the meaning of G.S. 105-164.13(27) and when fraternities and sororities operate dining rooms which serve meals or foodstuffs to students at educational institutions, such meals and food products are exempt from sales tax. Since fraternities and sororities are not required to collect and remit tax on sales of meals to students, most fraternities and sororities are not registered for sales tax purposes and cannot furnish a properly completed Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, in connection with their purchases. Firms making sales of foodstuffs to the above-described dining rooms shall make a notation on their bills of sale to the effect that the sales are to fraternity and sorority dining rooms. This information will suffice as a certificate of exemption.

History Note: Authority G.S. 105-164.13; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993.

17 NCAC 07B .2301 IN GENERAL

(a) For the purpose of the Sales and Use Tax Law, the term "registered nonresident retail or wholesale merchant" means a person who does not have a place of business in this State, is engaged in the business of acquiring by purchase, consignment or otherwise, tangible personal property and selling the property outside this State and is registered for sales and use tax purposes in a taxing jurisdiction outside this State.

(b) Sales of tangible personal property to registered nonresident retail or wholesale merchants for resale are exempt from the North Carolina sales tax, if all of the following conditions are met:

- (1) The wholesale merchant who sells tangible personal property for resale delivers to the nonresident retail or wholesale merchant a bill of sale for each sale of merchandise whether sold for cash or on credit, itemizing therein the

various articles of tangible personal property included in said sale, and makes and retains a duplicate or carbon copy of each such bill of sale, and keeps a file of all such duplicate bills of sale for at least three years from the date of sale.

- (2) The character of such tangible personal property is such as the nonresident retail or wholesale merchant ordinarily and customarily purchases as a part of his stock for resale.
- (3) The nonresident retail or wholesale merchant is registered for sales and use tax purposes in a taxing jurisdiction outside this State and furnishes each wholesale merchant with a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, certifying that he is a registered nonresident retail or wholesale merchant, and further certifying that the tangible personal property purchased by him from the wholesale merchant is purchased for the purpose of resale at retail or wholesale in accordance and compliance with the laws of the jurisdiction in which he resides or does business. Such Form E-595E, when completed and executed by the nonresident retail or wholesale merchant and delivered to the supplier, shall be deemed sufficient evidence that such nonresident retail or wholesale merchant is duly registered in a taxing jurisdiction outside this State and is engaged in the business of a retail or wholesale merchant purchasing tangible personal property at wholesale for legitimate sale in the taxing jurisdiction in which he resides or does business.

(c) The exemption in Paragraph (b) of this Rule shall apply only to sales of tangible personal property to nonresident retail or wholesale merchants for resale who comply with the terms and conditions hereof, and shall not be construed to apply to any sales of tangible personal property to users or consumers not for resale irrespective of the price, quantity or any other circumstances or conditions pertaining to such sale. Failure to comply with the provisions of this requirement shall subject the vendor to liability for the applicable rate of tax upon all sales which do not conform to this Rule.

History Note: Authority G.S. 105-164.3; 105-164.5; 105-262;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; February 1, 1988.

17 NCAC 07B .2402 SALES BY VETERINARIANS

Sales by veterinarians are subject to sales or use tax unless a specific exemption applies to the sale. A veterinarian who makes taxable retail sales must register with the Department and file sales and use tax returns. A veterinarian who is registered with the Department may obtain a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E. The certificate can be used to purchase, without payment of tax,

items the veterinarian is purchasing for resale. If a veterinarian uses an item, such as flea powder, soap, or pet food, in providing professional services and also sells the same type of item, the veterinarian may not know when purchasing the item whether the veterinarian will use the item or sell it. For items of this type, the veterinarian may use the Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E, to purchase the item without payment of tax. The veterinarian is then liable for remitting the applicable use tax, if the veterinarian uses the item, or the applicable sales tax, if the veterinarian sells the item.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; July 1, 2000; June 1, 1992; August 1, 1986; May 11, 1979.

17 NCAC 07B .2603 WEIGH HOPPERS SOLD TO CONTRACTORS

Sales of asphalt plants, concrete plants, weigh hoppers or other equipment to contractors who produce concrete or asphalt for use in fulfilling their contracts are taxable at the applicable statutory state and local sales or use tax, and no maximum tax is applicable thereto.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; December 1, 1984; July 5, 1980.

17 NCAC 07B .2604 SAND: STONE SOLD TO CONTRACTORS

Sales of sand, dirt, and stone to contractors or other users or consumers or to nonregistered merchants are subject to the applicable statutory state and local sales or use tax unless such property is sold in its original or unmanufactured state by the producer in his capacity as a producer.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .2605 SANDBLAST SAND SOLD TO CONTRACTORS

Sales of sandblast sand to contractors for use in the performance of contracts to clean ships, buildings, etc., are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3002 REPOSSESSIONS

Retailers shall not deduct from their gross taxable sales the unpaid amounts on repossessed merchandise. However, where a retailer repossesses an article of tangible personal property pursuant to either a limited or full recourse endorsement by such retailer to a financing institution and he resells such tangible personal property to recover the unpaid sales price, such resale is not subject to sales tax provided the sales tax was paid on the gross sales price of the initial sale. Otherwise, the sale of any repossessed article is subject to the applicable statutory state and local sales or use tax. The full gross sales price of any used article taken in trade by the vendor as a credit or part payment of the sales price of such nontaxable repossessed article is subject to the applicable statutory state and local sales or use tax when sold at retail.

History Note: Authority G.S. 105-164.13; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; May 1, 1990; January 3, 1984.

17 NCAC 07B .3005 REPAIR PARTS FOR USED PROPERTY

Sales of repair parts to registered merchants for use in reconditioning used property for sale to other registered merchants for resale are exempt from tax when such parts are sold pursuant to a Streamlined Sales and Use Tax Agreement Certificate of Exemption, Form E-595E.

History Note: Authority G.S. 105-164.5; 105-262;
Eff. February 1, 1976;
Amended Eff. May 1, 2009.

17 NCAC 07B .3011 USED PROPERTY SOLD FOR REPAIR CHARGES

The retail sale of taxable tangible personal property that is left with merchants for repair or storage and is sold to satisfy repair or storage charges because the owners fail to reclaim it within a stipulated period of time is subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3012 TRADE: GRAIN FOR FLOUR

Bags of flour or corn meal given by a miller to a customer in exchange for grain which is placed in the miller's inventory does not constitute a taxable transaction. The charge by a miller to mill a customer's own grain which is returned to the customer is not subject to sales tax. Grain bartered for dissimilar merchandise is subject to the applicable statutory state and local sales or use tax on the usual retail selling price of the merchandise received for the grain.

History Note: Authority G.S. 105-164.4; 105-164.13; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3101 RADIO AND TELEVISION: ETC. RECEIPTS

Receipts of radio and television companies for the broadcasting or telecasting of programs are not subject to sales or use tax. Receipts of motion picture theatres derived from admission charges are not subject to sales or use tax. Motion picture theatres making taxable sales of tangible personal property through concession stands or otherwise must register with the department and must collect and remit the applicable statutory state and local sales or use tax on such sales.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3103 RENTAL OF FILMS: RECORDINGS

Receipts derived from the lease or rental of motion picture film or prerecorded videotape cassettes to theaters or similar businesses for exhibition to the public and receipts derived from the lease or rental of such film or prerecorded videotape cassettes to schools, churches, hospitals, prisons and similar institutions and organizations for exhibition to students, congregations, patients and inmates are exempt from sales or use tax. Receipts derived from the lease or rental of motion picture film or prerecorded videotape cassettes to businesses, individuals, organizations and other lessees for any use other than for public exhibition are subject to the applicable statutory state and local sales or use tax. Projection equipment, screens, advertising matter and other tangible personal property which are leased, rented or sold at retail for use in showing film, videotape cassettes, DVDs, or any other prerecorded formats are subject to the applicable state and local sales or use tax regardless of whether the film or videotape is privately or publicly exhibited.

History Note: Authority G.S. 105-164.4; 105-164.13; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; April 1, 1997; October 1, 1993; October 1, 1991; November 1, 1982;
January 1, 1982.

17 NCAC 07B .3403 SUPPLIES TO INSTALL MEMORIAL STONES/MONUMENTS/BRONZE GRAVE MARKERS

Purchases of sand, cement, lumber and other tangible personal property by monument dealers for use in installing memorial stones, monuments, or bronze grave markers are subject to the applicable statutory state and local sales or use tax. Charges by

dealers to their customers for installation of such property are exempt from tax when such charges are separately stated from the charge for the memorial stones, monuments or bronze grave markers.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; December 1, 1994; October 1, 1993; October 1, 1991.

17 NCAC 07B .3503 MOLDS: DIES: FOR RESALE

Sales of molds, patterns or dies to manufacturers for resale to their customers are exempt from tax and classified as wholesale sales when such sales are supported by completed Streamlined Sales and Use Tax Agreement Certificates of Exemption, Form E-595E. Manufacturers are considered to be purchasing such items for resale only when title thereto and the right of possession thereof will pass to their customers and the manufacturer-vendors' books, records and invoices show that such items are actually sold to their customers.

History Note: Authority G.S. 105-164.5; 105-262;
Eff. February 1, 1976;
Amended Eff. May 1, 2009.

17 NCAC 07B .3505 MOLDS: DIES: NONMANUFACTURERS' USE

Manufacturers making retail sales of molds, patterns or dies to nonmanufacturing users or consumers within and without this state, with right of possession and title thereto passing to such customers, are liable for collecting and remitting the applicable statutory state and local sales or use tax on such sales, when the manufacturers selling the molds, patterns or dies retain them in their possession within this state for use in manufacturing tangible personal property for sale to such customers.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; October 1, 1988.

17 NCAC 07B .3701 LUBRICATING SERVICE

Chassis lubricants or greases, equipment and other tangible personal property used in lubricating motor vehicles are subject to the applicable statutory state and local sales or use tax when sold to service stations, garage operators and other persons engaged in the business of lubricating motor vehicles. Charges by the above businesses for services rendered in lubricating motor vehicles are not subject to tax provided such businesses maintain records which separately reflect the charges for lubricating motor vehicles and the charges for any sales of tangible personal property.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3703 CAR WASH BUSINESSES

The gross receipts from washing cars by persons operating a car wash business are exempt from tax. Such persons are liable for payment of the applicable statutory state and local sales or use tax on tangible personal property which they purchase for use in the operation of such businesses. If car wash operators make sales of tangible personal property through vending machines or otherwise, they are liable for collecting and remitting tax thereon.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3802 SALES OF TRADING STAMPS

Sales of trading stamps to a registered merchant, whether a trading stamp company or other retailer, are deemed to be sales for the purpose of resale and such sales are not subject to the tax. When the retailer distributes the stamps to his customers in connection with retail sales of other property, the stamps are considered to be included in the price of the items purchased by such customers. Sales to a trading stamp company of catalogues, stamp books, advertising matter or other tangible personal property furnished free to retail merchants or used by the trading stamp company to promote its stamp program are subject to the applicable statutory state and local sales or use tax. Sales of such items to other retail merchants are also subject to said tax.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .3804 GIFT CERTIFICATES

Charges by vendors for gift certificates which can be exchanged for merchandise are not subject to sales tax. When the holder of such gift certificates exchanges the certificate for merchandise, the transaction is subject to the applicable statutory state and local sales or use tax. The basis for the tax is the sales price of the property.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .4402 ROYALTIES

Royalties paid, or agreed to be paid, either on a lump sum or production basis, for tangible personal property used in this state are rentals subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .4403 MAINTENANCE OF LEASED PROPERTY

(a) Sales of tangible personal property to registered lessors or retailers for the purpose of lease or rental exclusively are wholesale sales and not subject to tax provided completed and executed certificates of resale are furnished to the vendors of such property. Sales of lubricants, repair parts and accessories to such lessors or retailers who use them to repair, recondition or maintain such leased or rented personal property are also wholesale sales when completed and executed certificates of resale are provided to vendors of this type property. Lessors are responsible for payment of any applicable statutory state and local tax on the cost price of such items if they are used for a purpose other than repairing or maintaining leased or rented property or if they are resold as such. Any tax due thereon is to be paid to the Secretary of Revenue on the lessors' or retailers' sales and use tax returns.

(b) When the lessee purchases lubricants and repair parts to maintain tangible personal property being leased or rented, the lessee is liable for payment of the applicable statutory state and local sales or use tax on the cost price of such purchases to the vendors or to the Secretary of Revenue. If a separate maintenance agreement for a fixed fee where no separate charge is made for parts and labor is executed by the lessor and lessee whereby the lessor or the lessee agrees, for a consideration separate from the lease payments, to maintain property being leased or rented, purchases of repair parts and lubricants by either party are subject to the tax payable by the purchaser thereof as described in this Rule.

History Note: Authority G.S. 105-164.4; 105-164.5; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; June 1, 1992; October 1, 1991; March 1, 1984.

17 NCAC 07B .4406 INSURANCE ON LEASED PROPERTY

The gross proceeds derived from or amounts agreed to be paid for the lease or rental of all kinds and types of tangible personal property for storage, use or consumption within this state are subject to the applicable statutory state and local sales or use taxes. The tax shall be computed on the gross receipts, gross proceeds or rental payable without any deduction whatsoever for any insurance charges paid to insure the property of the lessor or to insure the lessor against liability for damages to the property

or person of others. When the lessee purchases insurance on his own property or to insure himself against liability for damages to the property or person of others, insurance premiums paid by such lessee directly to the insurer or to the lessor as agent for transmittal to the insurer are exempt from tax. If the lessee pays such insurance premiums directly to the lessor as agent for transmittal to the insurer, such amounts are exempt from tax provided they are separately stated from the charges for the lease or rental of tangible personal property in the lessor's records and on the invoice given to the lessee; otherwise, the total amount charged by the lessor is subject to the tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991;
July 5, 1980.

17 NCAC 07B .4414 GOLF DRIVING RANGE FEES

Charges by golf driving ranges for the use of the range are not subject to sales or use taxes. In such cases, the person who pays the charge is generally entitled to the use of a golf club, basket of balls and the driving range; thus, there is no sale or rental of tangible personal property. Sales or rentals of tangible personal property by such businesses are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .4415 SKATING RINK FEES

Charges for the use of a skating rink or bowling alley are not subject to sales or use taxes; however, if such businesses rent tangible personal property, such as skates and shoes, charges for same are subject to sales tax. Sales of tangible personal property by such businesses are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .4506 GARMENT REPAIRS AND STORAGE

Charges by commercial laundries and dry cleaners for repairs, alterations and storage of garments are not subject to sales tax when such charges are separately stated on the invoice given to the customer and in the vendor's records. Sales of buttons, thread, zippers, and cloth for pockets and similar items to such businesses for use or consumption in repairing, altering or storing the customers' property are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .4509 UNIFORM RENTALS

Uniform rental businesses are not soliciting laundry or cleaning but are soliciting rental business for themselves. The total charge to such businesses by commercial laundries and dry cleaners for laundering or dry cleaning articles of tangible personal property which are to be leased or rented are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

17 NCAC 07B .4511 DYEING OF GARMENTS

When North Carolina laundries or dry cleaning plants accept dyeing jobs which they ship to out-of-state dyers for dyeing, the North Carolina laundries or dry cleaning plants are liable for collecting and remitting the applicable statutory state and local sales or use tax on the charges to their customers for the dyeing work.

History Note: Authority G.S. 105-164.4; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993.

17 NCAC 07B .5003 OPHTHALMIC INSTRUMENTS

Sales of ophthalmic instruments and supplies to physicians, oculists, optometrists and other users are subject to the applicable statutory state and local sales or use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; Article 39; Article 40; Article 42; Article 43; Article 44; Article 46;
Eff. February 1, 1976;
Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 56 – BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

21 NCAC 56 .0501 REQUIREMENTS FOR LICENSING

(a) Education. The education of an applicant shall be considered in determining eligibility for licensing as a Professional Engineer. The following terms used by the Board for the specific educational requirements to be eligible to be licensed as a Professional Engineer are defined by the Board as follows:

- (1) Engineering Curriculum of Four or More Years Approved by the Board is defined as a program that has been accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). This program is incorporated by reference including subsequent amendments and editions. This material is available for inspection at the office of the North Carolina Board of Examiners for Engineers and Surveyors. Copies may be obtained at the Board office at a cost of five dollars (\$5.00) per copy.
- (2) Engineering or Related Science Curriculum of Four or More Years Other than Ones Approved by the Board is defined as a curriculum, although not accredited by ABET, of technical courses which contains engineering or scientific principles.
- (3) Equivalent Education Satisfactory to the Board:
 - (A) A graduate degree in Engineering from an institution in which the same discipline undergraduate engineering program has been accredited by ABET (EAC) is considered equivalent to an engineering curriculum of four or more years approved by the Board.
 - (B) A bachelor's degree in Engineering Technology, whether or not accredited by the Technology Accreditation Commission (TAC) of ABET, is considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.
 - (C) An associate degree in an engineering related curriculum with an additional two years of progressive engineering experience is considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.
 - (D) A high school diploma with an additional four years of progressive engineering experience is considered equivalent to an engineering or related science curriculum of four or more years other than one approved by the Board.
 - (E) Foreign degrees are considered only after receipt of an equivalency report from the Center for Professional Engineering Education Services, an affiliate of the National Council of Examiners for Engineering and Surveying (NCEES), or from the American Association of Collegiate Registrars and Admissions Officers (AACRAO). The Board shall equate the degree to one of the education categories in Subparagraphs (a)(1) through (3) of this Rule.
- (b) Experience:
 - (1) General. The experience of an applicant shall be considered in determining whether an applicant is eligible to be licensed as a Professional Engineer.
 - (2) Required Experience. In evaluating the work experience required, the Board shall consider the total experience record and the progressive nature of the record. (Not less than half of required engineering experience shall be of a professional grade and character, and shall be performed under the responsible charge of a licensed Professional Engineer, or if not, a written explanation shall be submitted showing why the experience should be considered acceptable and the Board shall approve if satisfied of the grade and character of the progressive experience.)
 - (3) Definition. The terms "progressive engineering experience" or "progressive experience on engineering projects" mean that during the period of time in which an applicant has made a practical utilization of acquired knowledge, continuous improvement, growth and development have been shown in the utilization of that knowledge as revealed in the complexity and technical detail of the work product or work record. The applicant must show continuous assumption of greater individual responsibility for the work product over that period of time. The progressive experience on engineering projects shall be of a grade and a character which indicates to the Board that the applicant is competent to practice engineering.
 - (4) Specific Credit for Experience. In evaluating progressive engineering experience, the Board shall give credit for experience in the following areas of work:
 - (A) Graduate schooling or research in an approved engineering program resulting in award of an advanced engineering degree, one year for each such degree - maximum two years;
 - (B) Progressive land surveying - maximum two years; and
 - (C) Teaching of engineering subjects at the university level in an approved engineering program offering a four year or more degree approved by the Board - maximum two years.

The Board, however, shall not accept combinations, restricted only to the categories noted above, as fulfilling all the necessary statutory experience requirements. Every applicant for licensure as a Professional Engineer, as part of the total experience requirement, shall show a minimum of one year experience of a progressive engineering nature in industry, or government, or under a licensed Professional Engineer offering service to the public.

Full-time engineering faculty members who teach in an approved engineering program offering a four year or more degree approved by the Board, may request and be granted waiver of the minimum one year experience in industry, government, or private practice if they demonstrate consulting or research work of at least one year's duration, which was pursued to fruition, and which is of a progressive engineering nature. The faculty applicant shall document the work and demonstrate that the work meets the Board's requirement.

(5) Other Experience is Considered if it is:

- (A) Experience obtained prior to graduation as part of an ABET accredited engineering program which must be shown on the transcript, with a maximum credit of one year; or
- (B) Experience obtained in a foreign country that is performed under direct supervision of a Professional Engineer licensed with a member Board of the National Council of Examiners for Engineering and Surveying (NCEES).

History Note: Authority G.S. 89C-10; 89C-13; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982.

**21 NCAC 56 .0502 APPLICATION PROCEDURE:
INDIVIDUAL**

(a) General. A person desiring to become licensed as a Professional Engineer must make application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for an appropriate application form may be made to the Board office or obtained from the website.

(c) Applicable Forms:

- (1) Engineering Intern Form. This form requires the applicant to set forth personal history, educational background, provide character references, and furnish a photograph for identification purposes. The form is for use by those graduating, or those having graduated, from an engineering curriculum approved by the Board as follows:

- (A) Students graduating within two semesters, or the equivalent, of the semester in which the fundamentals of engineering examination is administered.

- (B) Graduates with less than two years since graduation.

(2) Professional Engineer Form:

- (A) All persons, including comity applicants and graduates of an engineering curriculum approved by the Board with more than two years progressive engineering experience, shall apply for licensure by using the Professional Engineer form. The submission of this form shall signify that the applicant seeks licensure, and shall result in seating for each examination required, when the applicant is so qualified. This form requires the applicant to set forth personal and educational background, engineering experience and character references. A passport-type photographic quality portrait that is adequate for current identification purposes is required.

- (B) Persons who have previously completed the fundamentals examination by use of the Engineering Intern Form shall submit the Professional Engineer Form to request licensure when qualified to take the final eight-hour examination.

(3) Supplemental Form. Persons who initially applied for the fundamentals of engineering exam using the Professional Engineer form must supplement the initial application upon applying for the principles and practice examination. The supplemental form requires that engineering experience from the date of the initial application until the date of the supplemental application be listed. Five references shall be submitted which are current to within one year of the examination date.

(4) Reference Forms:

- (A) Persons applying to take the examination for fundamentals of engineering must submit to the Board names of three individuals who are familiar with the applicant's work, character and reputation. Persons applying to take the examination for principles and practice of engineering must submit to the Board names of five individuals who are familiar with the applicant's work, character and reputation. Two of these individuals must be Professional Engineers.

- (B) In addition to the applicant submitting names to the Board of individuals familiar with the applicant's work, character and reputation, those individuals listed shall submit to the Board their evaluations of the applicant on forms supplied them by the applicant.
- (C) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant and information concerning the applicant's engineering experience, character and reputation.
- (D) The Board shall provide the reference forms to the applicant with the application. The reference forms shall then be distributed by the applicant to the persons listed on the application as references. The applicant shall see that the individuals listed as references return the reference forms to the Board prior to the filing deadline for the examination.

(d) Fees:

- (1) Engineering Intern Form. The examination fee for applicants applying for examination on the fundamentals of engineering using the engineering intern form is payable with the filing of the application. Once the applicant passes the examination on the fundamentals of engineering, the application fee of one hundred dollars (\$100.00) and the examination fee for the principles and practice of engineering examination are payable with the applicant's subsequent application for licensure as a Professional Engineer using the Professional Engineer form.
- (2) Professional Engineer Form. The application fee of one hundred dollars (\$100.00) and examination fee for applicants applying for the examination on the fundamentals of engineering or the principles and practice of engineering using the Professional Engineer form are payable with the filing of the application.
- (3) Comity. The licensure fee of one hundred dollars (\$100.00) is payable with the filing of the application.
- (4) Examination. The examination fee for any applicant is payable with the filing of the application in accordance with G.S. 89C-14.

(e) The Board shall accept the records maintained by the National Council of Examiners for Engineering and Surveying (NCEES) as evidence of licensure in another state. For comity licensure the NCEES record shall be accepted in lieu of completing the experience, education and references sections of

the application. A comity application, with or without a NCEES record, shall be administratively approved by the Executive Director based upon evidence of current licensure in another jurisdiction based on comparable qualifications, required references and no record of disciplinary action, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.

(f) Model Law Engineer. The term "Model Law Engineer" refers to a person who meets the requirements of section .0500 by meeting the requirements of NCEES and has a current NCEES record on file and is designated as a "Model Law Engineer." A "Model Law Engineer" application shall be administratively approved by the Executive Director based upon the designation, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.

(g) Personal interview. During the application process, the applicant may be interviewed by the Board members.

History Note: Authority G.S. 89C-10; 89C-13; 89C-14; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 1994; November 2, 1992; April 1, 1989; December 1, 1984; RRC Objection due to lack of Statutory Authority Eff. November 17, 1994; Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; January 1, 1995.

21 NCAC 56 .0503 EXAMINATIONS

(a) Fundamentals of Engineering. This eight-hour written examination is designed primarily to test the applicant's proficiency and knowledge of the fundamentals of engineering.

(b) Principles and Practice of Engineering. This eight-hour written examination is designed to test the applicant's proficiency and knowledge of engineering principles and practices.

(c) Examination Aids. Examinees may utilize examination aids as specified by the exam preparer.

(d) Preparation of Examination. The examinations in the fundamentals of engineering and in the principles and practice of engineering are national examinations provided by the National Council of Examiners for Engineering and Surveying (NCEES) of which the Board is a member.

(e) Examination Sequence. Before the applicant is permitted to be examined on the principles and practice of engineering, the applicant must pass the examination on the fundamentals of engineering, unless the applicant can evidence 20 years of progressive engineering experience and receives a waiver from the fundamentals of engineering exam by the Board. In no event is an applicant allowed to take both examinations at the same time or at the same scheduled examination date.

(f) Examination Filing Deadline. The applicant who wishes to take an examination must have the completed application (which includes all necessary references, transcripts, and verifications) in the Board office prior to August 1 for Fall examinations and January 2 for Spring examinations.

(g) Seating Notice. After approval of an application to take either the examination on the fundamentals of engineering or

principles and practice, the applicant shall be sent a seating notice. This notice shall inform the applicant of the date, time and location of the examination and the seat number assigned.

(h) Unexcused Absences. After a seating notice has been issued for a scheduled examination by the Board, and the applicant fails to appear, that applicant's record shall reflect "unexcused absence" unless the absence was for official jury duty or the applicant was not physically able to be present, as indicated by a doctor's certificate. The examination fee is forfeited.

(i) Re-Examination. A person who has failed an examination may apply to take the examination again at the next regularly scheduled examination period by making written request and submitting the required exam fee. A person having a combined record of three failures or unexcused absences is only be eligible after submitting a new application with appropriate application fee, and shall be considered by the Board for reexamination at the end of 12 months. After the end of the 12-month period, the applicant may take the examination no more than once every calendar year. The applicant must demonstrate to the Board that actions have been taken to improve the applicant's chances for passing the exam.

(j) Special Accommodation. An applicant may make a written request, before the application deadline, for special accommodation for the exam. Reasonable accommodation shall be granted based upon meeting the Guidelines for Requesting Religious and ADA Accommodations published by the National Council of Examiners for Engineering and Surveying (NCEES), which are hereby incorporated by reference, including subsequent amendments and editions. Copies are available at no cost at www.ncees.org.

(k) Exam Results. Exam results shall be supplied in writing as pass or fail. No results will be given in any other manner.

(l) Review of Failed Exams. An applicant who fails to make a passing score on an exam shall receive an exam analysis.

History Note: Authority G.S. 89C-10; 89C-13; 89C-14; 89C-15;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; April 1, 2001; August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982.

21 NCAC 56 .0505 EXPIRATIONS AND RENEWALS OF CERTIFICATES

(a) Professional Engineer Licensure. An annual renewal fee of sixty dollars (\$60.00) for certificates of licensure for Professional Engineers shall be payable to the Board. The Board shall send to each licensed Professional Engineer a form which requires the licensee to provide the Board with both the business and residential addresses, and the professional development hours (PDH) obtained during the previous year. The licensee shall give notice to the Board of a change of business or residential address within 30 days of the change.

(b) Engineering Intern Certificate. The Engineering Intern certificate does not expire and, therefore, does not have to be renewed.

History Note: Authority G.S. 89C-10; 89C-17;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. July 1, 2009; December 4, 2002; August 1, 2000; August 1, 1998; May 1, 1994.

21 NCAC 56 .0602 APPLICATION PROCEDURE: INDIVIDUAL

(a) General. A person desiring to become a Professional Land Surveyor must make application to the Board on a form prescribed and furnished by the Board.

(b) Request. A request for the application form may be made to the Board office or obtained from the website.

(c) Application Form. All persons applying to be licensed as a Professional Land Surveyor shall apply using the standard application form. This form requires the applicant to set forth personal background, plus educational background, land surveying experience, and references. A passport-type photographic quality portrait that shall be adequate for current clear identification purposes shall be required also.

(d) Supplemental Form. Persons who initially applied for licensure as a land surveyor, but were not eligible initially to be admitted to the examination for principles and practice of surveying, must supplement their initial applications upon ultimately applying for the second examination. The applicant must supplement the initial application by using the supplemental form, which requires the listing of land surveying experience from the date of the initial application to the date of the supplemental application. Five references shall be submitted which are current to within one year of the examination date.

(e) Reference Forms:

- (1) Persons applying to take the examination for the fundamentals of surveying or the examination for principles and practice must submit to the Board names of individuals who are familiar with the applicant's work, character and reputation. The names are submitted by the applicant on the application form.
- (2) Persons applying for the fundamentals of surveying examination must submit three references, one of which must be a Professional Land Surveyor. Persons applying for the principles and practice examination must submit five references, two of which must be Professional Land Surveyors.
- (3) In addition to the applicant submitting names to the Board of such individuals, those individuals shall submit to the Board their evaluations of the applicant on reference forms supplied them by the applicant.
- (4) The reference form requires the individual evaluating the applicant to state the evaluating individual's profession, knowledge of the applicant and information concerning the applicant's land surveying experience, character and reputation.
- (5) The Board shall provide the reference forms to the applicant along with the application for licensure. The reference forms shall then be distributed by the applicant to the persons

listed on the application as references. The applicant shall see that the individuals listed as references return the forms to the Board prior to the filing deadline for the examination applied for by the applicant.

(f) Fees:

- (1) Regular. The application fee of one hundred dollars (\$100.00) and appropriate examination fee for those applying for licensure based upon examination, experience, character and exhibit are payable with the filing of the application.
- (2) Comity. The licensure fee of one hundred dollars (\$100.00) and appropriate examination fee for those applying for licensure based upon comity are payable with the filing of the application.
- (3) Examination. The examination fee for any applicant shall be payable with the filing of the application in accordance with G.S. 89C-14.

(g) The Board shall accept the records maintained by the National Council of Examiners for Engineering and Surveying (NCEES) as evidence of licensure in another state. For comity licensure the NCEES record shall be accepted in lieu of completing the experience, education and references sections of the application. A comity application, with or without a NCEES record, shall be administratively approved by the Executive Director based upon evidence of current licensure in another jurisdiction based on comparable qualifications, required references, and having passed the two-hour North Carolina portion of the exam and no record of disciplinary action, without waiting for the next regular meeting of the Board at which time the action shall be reported to the Board for final approval.

(h) Personal Interview. During the application process, the applicant may be interviewed by Board members.

History Note: Authority G.S. 89C-10; 89C-13; 89C-14;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; May 1, 1994; April 1, 1989; January 1, 1982.

21 NCAC 56 .0603 EXAMINATIONS

(a) Fundamentals of Surveying. This eight-hour written examination is designed primarily to test the applicant's proficiency and knowledge of the fundamentals of surveying. Reference to Fundamentals of Surveying is the revised name of the national exam that is the Fundamentals of Land Surveying in G.S. 89C.

(b) Principles and Practice of Surveying. This eight-hour written examination is designed to test the applicant's proficiency and knowledge of land surveying practices and procedures generally and specifically within North Carolina.

(c) Examination Aids. Examinees may utilize examination aids as specified by the national exam preparer.

(d) Preparation of Examination. The examination in the fundamentals of surveying and six hours of the examination in the principles and practice of surveying are national examinations provided by the National Council of Examiners for Engineering and Surveying (NCEES) of which the Board is a

member or other examinations as adopted by the Board. The two-hour North Carolina portion of the principles and practice of surveying examination is provided by the Board.

(e) Examination Filing Deadline. The applicant who wishes to take an examination must have the completed application (which includes all necessary references, transcripts, and verifications) in the Board office prior to August 1 for Fall examinations and January 2 for Spring examinations.

(f) Seating Notice. After approval of an application the applicant shall be sent a seating notice. This notice shall inform the applicant of the date, time and location of the examination and the seat number assigned.

(g) Unexcused Absences. After a seating notice for a scheduled examination has been issued, and the applicant fails to appear, the applicant's record shall reflect "unexcused absence" unless the absence was for official jury duty or the applicant was not physically able to be present, as indicated by a doctor's certificate. The examination fee is forfeited.

(h) Re-Examination. A person who has failed an examination may apply to take the examination again at the next regularly scheduled examination period. A person having a combined record of three failures or unexcused absences is only eligible after submitting a new application with appropriate application fee, and shall be considered by the Board for re-examination at the end of 12 months. After the end of the 12-month period, the applicant may take the examination no more than once every calendar year. The applicant must demonstrate to the Board that actions have been taken to improve the applicant's chances for passing the exam.

(i) Special Accommodation. An applicant may make a written request, before the application deadline, for special accommodation for the exam. Reasonable accommodation shall be granted based upon meeting the Guidelines for Requesting Religious and ADA Accommodations published by the National Council of Examiners for Engineering and Surveying (NCEES).

(j) Exam Results. Exam results shall be supplied in writing as pass or fail. No results shall be given in any other manner.

(k) Review of Failed Exams. An applicant who fails to make a passing score on the two-hour North Carolina portion of the exam may request in writing within thirty days of receiving the result to have an opportunity to review that portion of the exam. The review shall be done in the Board Office under supervision of staff and is limited to one hour.

History Note: Authority G.S. 89C-10; 89C-15;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; April 1, 2001; August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982.

21 NCAC 56 .0606 EXPIRATIONS AND RENEWALS OF CERTIFICATES

(a) Professional Land Surveyor Licensure. An annual renewal fee of sixty dollars (\$60.00) for certificates of licensure for Professional Land Surveyors is payable to the Board. The Board shall provide each Professional Land Surveyor a form which requires the licensee to provide to the Board the business and residential addresses, and the professional development hours (PDH) obtained during the previous year. The licensee shall

give notice to the Board of a change of business or residential address within 30 days of the change.

(b) Surveyor Intern Certificate. The surveyor intern certificate does not expire and, therefore, does not have to be renewed.

History Note: Authority G.S. 89C-17;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. July 1, 2009; December 4, 2002; August 1, 2000;

August 1, 1998; May 1, 1994.

21 NCAC 56 .0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the Rules of professional conduct in this Rule are adopted in accordance with G.S. 89C-20 and are binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in this state. All persons licensed under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the Board Rules, including the Rules of professional conduct, and are deemed to be familiar with their provisions and to understand them.

(b) The licensee shall conduct the practice in order to protect the public health, safety and welfare. The licensee shall at all times recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the licensee shall inform the employer, the client, the contractor, other affected parties and any appropriate regulatory agency of the possible consequences of the situation.

(c) The licensee shall perform services only in areas of the licensee's competence and:

- (1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved.
- (2) May accept an assignment or project requiring education or experience outside of the licensee's own field of competence, but only to the extent that the services are restricted to those portions or disciplines of the project in which the licensee is qualified. All other portions or disciplines of such project shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines.
- (3) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee's direct supervisory control. Direct

supervisory control (responsible charge) requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. Direct supervisory control may be accomplished face to face or by other means of communication. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided that individual is qualified or licensed to provide such service and provided the licensee reviews the work. The licensee may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible.

(d) The licensee shall issue public statements only in an objective and truthful manner and:

- (1) Shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony.
- (2) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony.
- (3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of the party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the matters.
- (4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause or that are not objective and truthful or that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty

of misconduct or illegal practice, such information shall be presented to the North Carolina Board of Examiners in the form of a complaint.

(e) The licensee shall avoid conflicts of interest and:

- (1) Shall promptly inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services.
- (2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties.
- (3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible.
- (5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's organization in private engineering and land surveying practices.
- (6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's organization serves as a member.
- (7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.

(f) The licensee shall solicit or accept work only on the basis of qualifications and:

- (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
- (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered.
- (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the

Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.)

- (4) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is stated that no degree or certificate was awarded. The licensee shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

(g) The Licensee shall perform services in an ethical and lawful manner and:

- (1) Shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed.
- (2) If the licensee has knowledge or reason to believe that another person or firm may be in violation of the Board Rules (21 NCAC 56) or of the North Carolina Engineering and Land Surveying Act (G.S. 89C), shall present such information to the Board in writing in the form of a complaint and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. The licensee shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee from the Board. Timely is defined as within the time specified in the correspondence, or if no time is specified, within 30 days of receipt. Certified mail is timely claimed if prior to being returned by the Post Office to the Board office.

(h) A Professional Engineer or Professional Land Surveyor who has received a reprimand or civil penalty or whose professional license is revoked, suspended, denied, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's action constitutes a violation of G.S. 89C or the rules adopted by the Board.

History Note: Authority G.S. 89C-17; 89C-20;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982; March 1, 1979.

21 NCAC 56 .0802 PROCEDURE

(a) Professional Corporations and Limited Liability Companies:

- (1) Request. A request for an application for licensure as a professional corporation or professional limited liability company engaged in the practice of engineering or land surveying may be made at the Board office or obtained from the website.
- (2) Applicable Form. All professional corporations and professional limited liability companies complying with the statutory requirements of G.S. 89C, G.S. 55B and G.S. 57C which desire to practice engineering or land surveying shall apply by using a form prepared by the Board. This form requires the applicant, by and through an officer, director and shareholder of the professional corporation or limited liability company who is licensed with the North Carolina Board of Examiners for Engineers and Surveyors in the field(s) of professional services to be offered, to certify that it and the stockholders of the corporation or members of the limited liability company have complied with the provisions of the applicable provisions of the General Statutes and requires that the officers, directors, shareholders, members and professional employees be listed on that application.
- (3) Certificate of Licensure:
 - (A) Upon receiving the application with application fee of one hundred dollars (\$100.00), the Board, after determining that the firm has complied with the statutory requirements, shall issue a certificate of compliance.
 - (B) The firm must forward the certificate of compliance to the Secretary of State along with its articles of incorporation or articles of organization.
 - (C) Upon approval by the Secretary of State, the firm must forward to the Board a certified copy of its articles of incorporation or articles of organization.
 - (D) Upon receipt of the certified copy of the articles of the firm, if all statutory requirements have been met, the Board shall approve the application and issue the firm a certificate of licensure.

(b) Business Firms and Chapter 87 Corporations:

- (1) Request. A request for an application for licensure as a business firm or Chapter 87 corporation [as defined in G.S. 55B-15(a)(2)] engaged in the practice of engineering or land surveying may be made at the Board office or obtained from the website. A sole proprietorship owned and operated by the individual licensee in the licensee's name as reflected in the Board's records is exempt from firm licensure.
- (2) Applicable Form. All business firms or Chapter 87 corporations that desire to practice engineering or land surveying shall apply by using a form prepared by the Board. The form requires the applicant, through a principal officer, partner or owner, to certify that the business firm will be operated in compliance with the laws of the State of North Carolina and the rules of the North Carolina Board of Examiners for Engineers and Surveyors.
- (3) Certificate of Licensure. Upon receiving the application with application fee of one hundred dollars (\$100.00), the Board, after determining that the firm has complied with the statutory requirements, shall issue a certificate of licensure.

*History Note: Authority G.S. 55B-4; 55B-10; 57C-2.01; 89C-10; 89C-24;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 2009; August 1, 2000; February 1, 1996;
May 1, 1994; April 1, 1989; January 1, 1982.*

21 NCAC 56 .0804 ANNUAL RENEWAL

- (a) Renewal. The certificate of licensure for a business entity, including a professional corporation, limited liability company, Chapter 87 corporation, or business firm shall be renewed annually.
- (b) Expiration. The certificate of licensure expires on the last day of June following its issuance by the Board and becomes invalid on that date unless renewed.
- (c) Written Application. Upon written application on a renewal form prescribed by the Board accompanied by the prescribed fee of sixty dollars (\$60.00) the Board shall renew the certificate of licensure providing that the firm has complied with all Rules of the Board and applicable General Statutes of North Carolina. The form shall be mailed to all licensees in good standing no later than June 1st. The licensed entity shall give notice to the Board of a change of business address within 30 days of the change.
- (d) If a firm fails to renew its certificate of licensure within one year of the expiration date, the firm shall submit a new application for a new certificate of licensure in accordance with all requirements of 21 NCAC 56 .0802.

*History Note: Authority G.S. 55B-11; 57C-2-01; 89C-10; 89C-14; 89C-17; 89C-24;
Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;
Amended Eff. July 1, 2009; December 4, 2002; April 1, 2001;
February 1, 1996; May 1, 1994.*

21 NCAC 56 .1102 DESIGN

The standard design of the seal shall be two concentric circles in which North Carolina and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and either "Professional Engineer" or "Professional Land Surveyor," is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.

*History Note: Authority G.S. 89C-10; 89C-16;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998;
April 1, 1989; January 1, 1982.*

21 NCAC 56 .1103 STANDARD CERTIFICATION REQUIREMENTS

(a) Certification of Final Drawings. Drawings or maps not conforming to Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on reproducibles or original drawings;
- (2) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to a plan sheet or map;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;
- (4) The date of signing must be annotated on the original document;
- (5) All sheets of engineering and surveying drawings must be certified;
- (6) The name, address and license number of the licensee's firm shall be included on each sheet of engineering drawings. For surveys, the name, address and licensee number of the licensee's firm shall be included on the first sheet of the survey or title sheet; and
- (7) Any revision on a drawing after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(b) Certification of Specifications and Reports. All specifications, reports, or other documents, including letter reports and calculations, not conforming to Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on original specifications, reports, or other documents, including letter reports and calculations;
- (2) The seal may be a rubber stamp, or other facsimile;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original

document. A facsimile signature is not acceptable;

- (4) The date of signing must be annotated on the original document;
- (5) The title sheet of engineering specifications or other reports must be certified and bear the name, address and license number of the licensee's firm. The title sheet of any survey report or written description of property shall include the name, address and license number of the licensee's firm; and
- (6) Any revision in the document after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(c) Exceptions to Required Certification. The certification of a licensee on a map, drawing, plan, specification, plat, document, or report shall signify that it is the final work of the licensee unless the work is stamped or marked substantially as follows so as to put the public on notice not to use as a final product, in which case certification is optional:

- (1) "Preliminary - Do not use for construction";
- (2) "Progress Drawings - Do not use for construction";
- (3) "Preliminary Plat - Not for recordation, conveyances, or sales";
- (4) "Final Drawing - Not released for construction";
- (5) "Final Drawing - For Review Purposes Only";
- (6) "Not a Certified Document - This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document shall not be considered a certified document";
- (7) "Not a Certified Document as to the Original Document but Only as to the Revisions - This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document is only certified as to the revisions".

(d) Electronically Transmitted Documents. Documents, including drawings, specifications and reports, that are transmitted electronically beyond the direct control of the licensee shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in Paragraph (e) of this Rule. After removal of the seal the electronic media shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of sealer), (license number), on (Date of sealing). This medium shall not be considered a certified document." Hardcopy documents containing the original seal, signature and date of the licensee may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of certified documents are not subject to the requirements of this Paragraph. The electronic transmission beyond the direct control of the licensee of CAD, vector or other files subject to easy editing are subject to the requirements of this paragraph. Easy editing is

based on the file consisting of separate elements that can be individually modified or deleted. Documents that are excepted from certification by a statement meeting the requirements of Subparagraphs (c)(1) through (c)(5) of this Rule are not subject to the requirements of this Paragraph.

(e) Documents to be electronically transmitted beyond the direct control of the licensee that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

- (1) Unique to the licensee using it;
- (2) Capable of verification;
- (3) Under the sole control of the licensee; and
- (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(f) A digital signature process may be submitted to the Board for approval that it meets the criteria set forth in Subparagraphs (e)(1) through (4) of this Rule. The licensee shall confirm that if another process is used, that it meets the criteria.

History Note: Authority G.S. 89C-10; 89C-16;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; February 1, 1996; May 1, 1994; April 1, 1989; December 1, 1984.

21 NCAC 56 .1106 CERTIFICATION OF STANDARD DESIGN PLANS

Standard design plans that were initially prepared and certified by an individual who is a licensed engineer in the state of origin of such plans (including North Carolina) may then be reviewed by a North Carolina Professional Engineer for code conformance, design adequacy, and site adaptation for the specific application within North Carolina. The reviewing Professional Engineer who is licensed in North Carolina assumes responsibility for such standard designs. Standard plans, which bear the seal of the original design engineer who is a licensed engineer in another state, or North Carolina, shall be sealed by the reviewing North Carolina Professional Engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows: "These plans have been properly examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and have been properly site adapted for use in this area."

History Note: Authority G.S. 89C-10; 89C-16;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998; April 1, 1989; December 1, 1984; January 1, 1982.

21 NCAC 56 .1301 IMPROPER PRACTICE BY A LICENSEE

(a) General. Alleged practice that may violate the Board Rules 21 NCAC 56 or G.S. 89C by a licensee is subject to Board investigation and disciplinary action by the Board if necessary.

(b) Preferring Charges. Any person who believes that any licensed Professional Engineer, Professional Land Surveyor or firm holding a certificate of authorization is in violation of the provisions of G.S. 89C or the rules in this Chapter may prefer charges against that person or firm by setting forth in writing those charges and swearing to their authenticity, along with providing corroborative evidence. The charges shall be filed with the Board's office in Raleigh, North Carolina.

(c) Preliminary Review:

- (1) Upon receipt of a properly filed charge, a case shall be opened.
- (2) A field investigation may be performed if determined necessary by the Executive Director.
- (3) If the Executive Director determines that the charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or firm against whom the charge is made and a response is requested of the person or firm so charged to show compliance with all lawful requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt request.
- (4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee which is made up of the following individuals:
 - (A) one member of the Board who is licensed in the respective profession,
 - (B) the legal counsel of the Board, and
 - (C) the Executive Director of the Board.
- (5) Upon review of the available evidence, the review committee shall present to the Board a written recommendation that:
 - (A) the charge be dismissed as unfounded or trivial;
 - (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order that person not to commit in the future the specific act or acts admitted and also not to violate any of the provisions of the Board Rules or the statutes at any time in the future;
 - (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this

Chapter and the provisions of G.S. 150B; or

- (D) whether the charge is admitted or denied, the Board give notice to the licensee of a contemplated action as set out in Rule .1403(b) of this Chapter.

(d) Consultant. A consultant to the review committee shall be designated by the Board Chair if a board member is a complainant, witness or respondent in a case. The consultant shall be a licensed professional engineer or professional land surveyor, depending on the nature of the case, and selected from a list provided by the Executive Director of former Board members or other licensed professionals who are knowledgeable with the Board's processes. The consultant shall review all case materials and make a recommendation for consideration by the review committee as to the merits of the case. The consultant shall review any new information presented in the event of a settlement conference and make a recommendation to the settlement conference committee.

(e) Board Decision. Notice of the decision by the Board on recommendations of the review committee shall be given to the party against whom the charges have been brought and the party submitting the charge. Though it is not forbidden to do so, the Board is not required to notify the parties of the reasons of the Board in making its determination.

(f) Settlement Conference. When the Board issues a citation for hearing or notice of a contemplated action, the licensee may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the licensee and Board's settlement committee do not agree to a resolution of the dispute for the full Board's consideration, the original administrative proceeding shall commence. During the course of the settlement conference, no sworn testimony shall be taken nor shall any witnesses be cross-examined.

- (1) The Board's settlement committee shall be made up of the following individuals:

- (A) the member of the Board who served on the review committee or the replacement if the member is not available,
- (B) one public member from the Board,
- (C) the legal counsel of the Board, and
- (D) the Executive Director of the Board.

- (2) Upon review of the available evidence, the settlement committee shall present to the Board a written recommendation that:

- (A) the charge be dismissed as unfounded or trivial;
- (B) when the charge is admitted as true, the Board accept the admission of guilt by the person charged and order the person not to commit in the future the specific act or acts admitted and, also, not to violate any provisions of the Board Rules or the statutes at any time in the future;

- (C) the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or

- (D) whether the charge is admitted or denied, the Board give notice to the licensee of a contemplated action as set out in Rule .1403(b) of this Chapter.

History Note: Authority G.S. 89C-10; 89C-21; 89C-22; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998; March 1, 1996; April 1, 1989; December 1, 1984; January 1, 1982.

21 NCAC 56 .1413 DECISION OF BOARD

(a) Manner and Time of Rendering Decision. After a hearing has been completed the Board shall proceed to consider the case and as soon as practicable shall render their decision. The decision must be rendered within 90 days after the hearing.

(b) Service of Written Decision. The Board shall serve upon each party a written copy of the decision, either personally or by certified mail. If the decision is sent by certified mail it shall be deemed to have been served on the date borne on the return receipt.

(c) Final Decision. The final decision of the Board shall be in the manner and form prescribed by G.S. 150B-42(a).

(d) Official Record. The official record shall be prepared in all contested cases in accordance with the requirements of G.S. 150B-42(b).

History Note: Authority G.S. 89C-10; 89C-21; 89C-22; 150B-42; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 2009; April 1, 1989; January 1, 1982.

21 NCAC 56 .1602 SURVEYING PROCEDURES

(a) A Professional Land Surveyor shall spend the necessary time and effort to make adequate investigation to determine if there are encroachments, gaps, lappages, or other irregularities along each line surveyed. Points may be placed on the line from nearby closed or verified traverses and the necessary investigations made from these points. If these investigations are not made, then the surveyor shall not certify to an actual survey of that line and the plat must contain the appropriate qualifications in accordance with the rules in this Section.

(b) Any and all visible or determined encroachments or easements on the property being surveyed shall be accurately located and indicated.

(c) With respect to investigation of property boundaries and recorded easements, the surveyor shall examine the most recent

deeds and recorded plats adjacent to the subject property as well as all deeds and plats recorded after the date of the deed or plat upon which the survey is being based (the survey reference deed or plat).

(d) Except as provided in Paragraph (e) of the Rule, metal stakes or materials of comparable permanence shall be placed at all corners.

(e) Where a corner falls in a right-of-way, in a tree, in a stream, or on a fence post, boulder, stone, or similar object, one or more monuments or metal stakes shall be placed in the boundary so that the inaccessible point may be located accurately on the ground and the map.

(f) The results of a survey shall be reported to the user of that survey as a map or report of survey and, whether in written or graphic form, shall be prepared in a clear and factual manner. All reference sources shall be identified. Artificial monuments called for in such reports shall be described as found or set. When no monument is found or set for points described in Paragraph (e) of this Rule, that fact shall be noted.

(g) Where the results of a survey are reported in the form of a plat or a written description, one or more corners shall, by a system of azimuths or courses and distances, be accurately tied to and coordinated with a horizontal control monument of some United States or State Agency survey system, such as the North Carolina Geodetic Survey, where such monument is within 2000 feet of the subject property, right-of-way, easement or other surveyed entity. Where the North Carolina grid system coordinates of said monument are on file in the North Carolina Office of State Planning, the coordinates of both the referenced corner or point and the monument(s) shall be shown in X (easting) and Y (northing) coordinates on the plat or in the written description or document. The coordinates shall be identified as based on 'NAD 83', indicating North American Datum of 1983 or as 'NAD 27' indicating North American Datum of 1927. The tie lines to the monuments must be sufficient to establish true north or grid north bearings for the plat or description if the monuments exist in pairs. Control monuments within a previously recorded subdivision may be used in lieu of grid control. In the interest of bearing consistency with previously recorded plats, existing bearing control may be used where practical. In the absence of Grid Control, other natural or artificial monuments or landmarks shall be used. In all cases, the tie lines shall be sufficient to accurately reproduce the subject lands from the control or reference points used.

(h) Area is to be computed by double meridian distance or equally accurate method and shown on the face of the plat, written description or other document. Area computations by estimation, by planimeter, by scale, or by copying from another source are not acceptable methods, except in the case of tracts containing inaccessible areas and in these areas the method of computation shall be stated.

*History Note: Authority G.S. 89C-10; 89C-20;
Eff. July 1, 1989;
Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998;
February 1, 1996.*

21 NCAC 56 .1603 CLASSIFICATION OF BOUNDARY SURVEYS

General. Boundary surveys are defined as surveys made to establish or to retrace a boundary line on the ground, or to obtain data for constructing a map or plat showing a boundary line. For the purpose of this Rule, the term refers to all surveys, including "loan" or "physical" surveys, which involve the determination or depiction of property lines. For the purpose of specifying minimum allowable surveying standards for boundary surveys, the following four general classifications of lands in North Carolina are established from the standpoint of their real value, tax value, or location. Each map shall contain a statement of the calculated ratio of precision before adjustments or a statement of positional accuracy.

- (1) Local Control Network Surveys (Class AA). Local control network surveys are traverse networks utilizing permanent points for the purpose of establishing local horizontal control networks for future use of local surveyors. For Class AA boundary surveys in North Carolina, the angular error of closure shall not exceed ten seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 20,000 feet of perimeter of the parcel of land (1:20,000). When using positional accuracy standards for Class AA control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.05 feet or 0.015 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.
- (2) Urban Land Surveys (Class A). Urban surveys include lands which normally lie within a town or city. For Class A boundary surveys in North Carolina, the angular error of closure shall not exceed 20 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 10,000 feet of perimeter of the parcel of land (1:10,000). When using positional accuracy standards for Class A control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.10 feet or 0.030 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.
- (3) Suburban Land Surveys (Class B). Suburban surveys include lands in or surrounding the urban properties of a town or city. For Class B boundary surveys in North Carolina, the angular error of closure shall not exceed 25 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per

- 7,500 feet of perimeter of the parcel of land (1:7,500). When using positional accuracy standards for Class B control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.12 feet or 0.037 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.
- (4) Rural and Farmland Surveys (Class C). Rural and farmland surveys include lands located in rural areas of North Carolina and generally outside the suburban properties. For Class C boundary surveys in North Carolina, the angular error of closure shall not exceed 30 seconds times the square root of the number of angles turned. The ratio of precision shall not exceed an error of closure of one foot per 5,000 feet of perimeter of the parcel of land (1:5,000). When using positional accuracy standards for Class C control and boundary surveys, neither axis of the 95 percent confidence level error ellipse for any control point or property corner shall exceed 0.15 feet or 0.046 meters measured relative to the position(s) of the horizontal control points used and referenced on the survey.

History Note: Authority G.S. 89C-10; 89C-20; Eff. July 1, 1989; Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998; November 2, 1992; January 1, 1992.

21 NCAC 56 .1604 MAPPING REQUIREMENTS FOR BOUNDARY SURVEYS

- (a) The size of a map shall be such that all details are legible on a copy.
- (b) Any lines that are not actually surveyed must be indicated on the map and a statement included revealing the source of information from which the line is derived.
- (c) All surveys based on the North Carolina grid system shall contain a statement identifying the coordinate system referenced datum used.
- (d) All plats (maps), unless marked as "Preliminary Plat - Not for recordation, conveyances, or sales" shall be sealed, signed and dated by the Professional Land Surveyor and shall contain the following:
- (1) An accurately positioned north arrow coordinated with any bearings shown on the plat. Indication shall be made as to whether the north index is true, magnetic, North Carolina grid ('NAD 83' or 'NAD27'), or is referenced to old deed or plat bearings. If the north index is magnetic or referenced to old deed or plat bearings, the date and the source (if determined) shall be indicated.
 - (2) The azimuth or courses and distances of every property line surveyed shall be shown. Distances shall be in feet or meters and

- decimals thereof. The number of decimal places shall be appropriate to the class of survey required.
- (3) All plat lines shall be horizontal or grid measurements. All lines shown on the plat shall be correctly plotted to the scale shown. Enlargements of portions of a plat are acceptable in the interest of clarity, where shown as inserts. Where the North Carolina grid system is used, the combined grid factor shall be shown on the face of the plat. If grid distances are used, it must be shown on the plat.
 - (4) Where a boundary is formed by a curved line, the following data must be given: actual survey data, or as a series of subchords with bearings and distances around the curve. If standard curve data is used, the bearing and distance of the long chord (from point of curvature to point of tangency) must be shown on the face of the plat.
 - (5) Where a subdivision of land is set out on the plat, all streets and lots shall be accurately plotted with dimension lines indicating widths and all other information pertinent to retracing all lines in the field. This shall include bearings and distances sufficient to form a continuous closure of the entire perimeter.
 - (6) Where control corners have been established in compliance with G.S. 39-32.1, 39-32.2, 39-32.3, and 39-32.4, as amended, the location and information as required in the referenced statute shall be shown on the plat. All other corners that are marked by monument or natural object shall be so identified on all plats, and where practical all corners of adjacent owners along the boundary lines of the subject tract that are marked by monument or natural object shall be shown.
 - (7) The surveyor shall show one of the following where they could be determined:
 - (A) The names of adjacent land owners; or
 - (B) The lot, block, parcel and subdivision designations; or
 - (C) Other legal reference where applicable.
 - (8) All visible and apparent rights-of-way, easements, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown.
 - (9) Tie lines as required and defined in Rule .1602(g) of this Section shall be accurately shown on the face of the plat, whether or not the plat is to be recorded.
 - (10) A vicinity map (location map) shall appear on the face of the plat.

- (11) Each map shall contain the property designation, name of owner or prospective owner, location (including township, county, and state), and the date or dates the survey was conducted. In addition each map shall contain a scale of the drawing listed in words or figures; a bargraph; the title source; and a legend depicting nomenclature or symbols not otherwise labeled.
- (12) Each map shall contain a certificate signed by the Professional Land Surveyor in substantially the following form:
 "I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book _____, page _____ or other reference source _____); that the boundaries not surveyed are indicated as drawn from information in Book _____, page _____ or other reference source _____; that the ratio of precision or positional accuracy is _____; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600)."
 This _____ day of _____,
 2_____.
 Seal _____
 _____ Professional Land Surveyor

*History Note: Authority G.S. 89C-10; 89C-20;
 Eff. July 1, 1989;
 Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998;
 February 1, 1996; November 2, 1992; January 1, 1992.*

**21 NCAC 56.1606 SPECIFICATIONS FOR
 TOPOGRAPHIC AND PLANIMETRIC MAPPING,
 INCLUDING GROUND, AIRBORNE, AND
 SPACEBORNE SURVEYS**

(a) General.

- (1) Topographic surveys are defined as surveys that have as their major purpose the determination of the configuration (relief) of the earth (ground) and the location of natural or artificial objects thereon.
- (2) Planimetric mapping is defined as producing a map that presents the horizontal positions only for the features represented; distinguished from a topographic map by the omission of relief in measurable form.
- (3) Airborne and spaceborne surveys are defined as the use of photogrammetry, LIDAR, IFSAR, or other similar measurement technologies for obtaining reliable information about physical objects and the environment, including terrain surface, through the process of recording, measuring, and interpreting images and patterns of electromagnetic radiant

energy and other phenomena. This Rule establishes minimum allowable photogrammetric production procedures and standards for photogrammetric mapping and digital data production.

- (b) Production procedures for topographic and planimetric mapping surveys shall be in accordance with the standards established by Part 3 of the Federal Geographic Data Committee (FGDC) Geospatial Positioning Accuracy Standard and applicable extensions and revisions. These standards are incorporated by reference including subsequent amendments and editions. The material is available from the Board office at the cost of reproduction as a public record or from the FGDC at www.fgdc.gov at no cost. Reporting accuracy shall be in accordance with Part 1 of the FGDC geospatial standards.
- (c) Topographic or planimetric maps, orthophotos, and related electronic data, unless marked as "Preliminary Map," shall meet contractually specified FGDC Standards for horizontal and vertical accuracies (in the absence of specified standards, the National Map Accuracy Standards apply) and shall be certified by the licensee.
- (d) When the resulting product is a digital (electronic) data set, or a map or document consists of more than one sheet or otherwise cannot be certified, a project report shall be certified. The report shall be marked "Preliminary" if applicable.
- (e) Ground control for topographic and planimetric mapping projects shall be in North Carolina State Plane Coordinate System grid coordinates and distances when the project is tied to Grid. A minimum of one permanent project vertical control point shall be shown.
- (f) The project map or report shall contain the applicable following information:

- (1) Date of original data acquisition.
- (2) Altitude of sensor and sensor focal length, as applicable.
- (3) Date of document or data set compilation.
- (4) If hard copy product is produced, the maps shall contain a north arrow, map legend, final document scale, including bargraph, and contour interval, as applicable.
- (5) Coordinate system for horizontal and vertical denoting SI or English units (i.e., NAD83, assumed, or other coordinate system).
- (6) A list or note showing the control points used for the project. The minimum data shown for each point shall include: physical attributes e.g. iron rod, railroad spike), latitude and longitude (or X and Y Grid coordinates), and elevation, as applicable.
- (7) If other data is included, the source and accuracy of those items must be indicated.
- (8) A statement of accuracy complying with contractually specified FGDC standards consistent with Paragraph (c) of this Rule.
- (9) For topographic maps or data sets, contours in areas obscured by man-made or natural features shall be uniquely identified or enclosed by a polygon identifying the obscured area. The accuracies of the contours

or of features in this obscured area shall be noted "No reliance is to be placed on the accuracy of these contours."

- (10) A vicinity map depicting the project location on the first sheet of all hard copy maps or in the report accompanying digital files.
- (11) The name of the client for whom the project was conducted.

(g) Nothing in this Section shall be construed to negate or replace the relative accuracy standards found in Rules .1601 through .1608.

(h) A certificate, substantially in the following form, shall be affixed to all maps or reports:

" I, _____, certify that this project was completed under my direct and responsible charge from an actual (insert as appropriate: ground or airborne) survey made under my supervision; that this photogrammetric survey was performed to meet Federal Geographic Data Committee Standards as applicable; that the imagery and/or original data was obtained on ____ (date) ____; that the survey was completed on ____ (date) ____; that contours shown as [broken lines] may not meet the stated standard; and all coordinates are based on ____."

(i) Documents transmitted electronically shall have the computer-generated seal removed from the original file and a copy of the project report shall be certified and sent to the client. The electronic data shall have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of sealer), (license number), on (date of sealing). This electronic media shall not be considered a certified document. See the project report for certificate and seal."

History Note: Authority G.S. 89C-10; 89C-20;
Eff. November 2, 1992;
Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000.

21 NCAC 56 .1607 GLOBAL POSITIONING SYSTEMS SURVEYS

(a) General. Global Positioning Systems (GPS) are defined as the navigation and positioning systems that comprise the Global Navigation Satellite System (GNSS), which includes NAVSTAR, GLONASS, GALILEO, COMPASS, and any other satellite-based navigation and positioning systems. All surveys as defined in G.S. 89C-3(7) performed in North Carolina shall be performed by a Professional Land Surveyor licensed in North Carolina.

(b) The Professional Land Surveyor in responsible charge of the GPS survey shall certify all prepared documents. When a map or document consists of more than one sheet, only one sheet must contain the certificate and all others must be certified. The certificate or metadata notes shall contain the following information:

- (1) Class of GPS survey as defined in the Standards of Practice (or list the sections).
- (2) Type of GPS field procedure, such as Static, Kinematic, Pseudo-Kinematic, Real-time Kinematic, Real-time Kinematic networks, and Online Position User Service.

- (3) Positional accuracy.
- (4) Dates of survey.
- (5) What datum and epoch coordinates or geographic positions are based on.
- (6) Designation of fixed-control stations and their positional data.
- (7) Geoid model used.
- (8) Combined grid factor(s).

The certificate shall be substantially in the following form:

"I, _____, certify that this map was drawn under my supervision from an actual GPS survey made under my supervision and the following information was used to perform the survey:"

- (1) Class of survey: _____
- (2) Positional accuracy: _____
- (3) Type of GPS field procedure: _____
- (4) Dates of survey: _____
- (5) Datum/Epoch: _____
- (6) Published/Fixed-control use: _____
- (7) Geoid model: _____
- (8) Combined grid factor(s): _____
- (9) Units: _____

(c) GPS surveys performed to provide control networks shall be performed in such a manner that a 95 percent confidence level of the positional accuracy of each point relative to the published positions of the control points used and shall meet the accuracy standards of a Class AA survey as set out in Rule .1603.

(d) GPS surveys performed to provide local horizontal or vertical Grid control on a parcel of land where the boundary or topography of that parcel will be shown relative to NC Grid horizontal or vertical datum shall be performed using techniques that will provide the standards of accuracy for the class of survey being performed while determining the horizontal or vertical positions of objects as set out in Rule .1603 or Rule .1606 as applicable.

(e) Fixed station(s) used for the project shall appear on the map, plat, or report. The minimum data shown for each fixed station shall be station name, horizontal position (northing and easting) or latitude, longitude, elevation (ellipsoid or orthometric), and datum and epoch.

History Note: Authority G.S. 89C-10; 89C-20;
Eff. November 2, 1992;
Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000.

21 NCAC 56 .1608 CLASSIFICATION/LAND INFORMATION SYSTEM/GEOGRAPHIC INFORMATION SYSTEM SURVEYS

(a) General: Land Information System/Geographic Information System (LIS/GIS) surveys are defined as the measurement of

existing surface and subsurface features for the purpose of determining their accurate geospatial location for inclusion in an LIS/GIS database. All LIS/GIS surveys as they relate to property lines, rights-of-way, easements, subdivisions of land, the position for any survey monument or reference point, the determination of the configuration or contour of the earth's surface or the position of fixed objects thereon, and geodetic surveying which includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry, shall be performed by a Land Surveyor who is a licensee of this Board. For the purpose of specifying minimum allowable surveying standards, four general classifications of LIS/GIS surveys are established, any of which may be specified by the client. In the absence of a specified standard, the surveyor shall conform the survey to the requirements for a Class B survey. The four general classifications are:

- (1) Class A LIS/GIS surveys. For Class A LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 0.5 meter (1.64 feet);
- (2) Class B LIS/GIS surveys. For Class B LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 1.0 meter (3.28 feet);
- (3) Class C LIS/GIS surveys. For Class C LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 2 meters (6.56 feet); and
- (4) Class D LIS/GIS surveys. For Class D LIS/GIS surveys in North Carolina, the relative accuracy shall be equal to or less than 5 meters (16.40 feet).

(b) Nothing in this Rule negates or replaces the relative accuracy standards found in Rules .1601 through .1607 of this Chapter.

(c) The Professional Land Surveyor in responsible charge of the LIS/GIS boundary or geodetic control survey shall certify to all of the following in either written or digital form:

- (1) Class of LIS/GIS survey. Method used to evaluate the accuracy shall be described as either statistical testing or least squares adjustment results, comparison with values of higher accuracy, and repeat measurements. The reporting standard in the horizontal component is the radius of a circle of uncertainty, such that the true or theoretical location of the point falls within that circle 95 percent of the time. For vertical accuracy requirements, see Rule .1606,
- (2) Method of measurement (i.e. global positioning system, theodolite and electronic distance meter, transit and tape),
- (3) Date(s) of the survey, and
- (4) Datum used for the survey.

History Note: Authority G.S. 89C-10; 89C-20;
Eff. February 1, 1996;

Amended Eff. May 1, 2009; August 1, 2002; August 1, 2000.

21 NCAC 56 .1702 DEFINITIONS

Terms used in this Section are defined as follows:

- (1) Professional Development Hour (PDH) - A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.
- (2) Continuing Education Unit (CEU) - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours of instruction or presentation.
- (3) College/Unit Semester/Quarter Hour - Credit for Accreditation Board for Engineering and Technology approved course or other related college course.
- (4) Course/Activity - Any course or activity with a purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.
- (5) Dual Licensee - A person who is licensed as both an engineer and a land surveyor.
- (6) Sponsor - Organization or individual that has supplied information on a form prescribed and furnished by the Board with respect to the organization or individual's ability to provide instruction in "for credit" courses. Courses offered by those designated as "Sponsor" must contain a purpose and objective, and result in the maintenance, improvement, or expansion of skills and knowledge relevant to a licensee's field of practice.

History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000.

21 NCAC 56 .1703 REQUIREMENTS

Every licensee shall obtain 15 PDH units during the renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Selection of courses and activities which meet the requirements of Rule .1702(4) of this Section is the responsibility of the licensee. Licensees may select courses other than those offered by sponsors. Post evaluation of courses may result in non-acceptance. PDH units may be earned as follows:

- (1) Completion of college courses;
- (2) Completion of continuing education courses, seminars, or workshops;
- (3) Completion of correspondence, televised, internet, videotaped, audiotaped, and other courses/tutorials provided an exam is required for completion;
- (4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;

- (5) Teaching or instructing in Items (1) through (4) of this Rule;
- (6) Authoring published papers, articles, or books;
- (7) Active participation in professional or technical societies as defined in Rule .1705(f) of this Section;
- (8) Patents; and
- (9) Authoring exam questions accepted for use in the engineering or land surveying exams.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998.*

21 NCAC 56 .1705 DETERMINATION OF CREDIT

- (a) The Board of Examiners has final authority with respect to approval of courses, sponsors, credit, PDH value for courses, and other methods of earning credit.
- (b) Credit for college or community college courses shall be based upon course credit established by the college.
- (c) Credit for continuing education courses, seminars and workshops shall be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and technical society meetings shall earn PDH units for the actual time of each program.
- (d) Credit for correspondence, televised, internet, videotaped, audiotaped, and other courses/tutorials, provided an exam is required for completion, shall be based upon one PDH unit for each hour assigned to the course, provided such hours are a reasonably estimated time for an average professional to complete the course.
- (e) Credit determination for published papers, articles and books and obtaining patents is the responsibility of the licensee.
- (f) Credit for active participation in professional and technical societies (limited to 2 PDH per organization), requires that a licensee serve as an officer or participate in a committee of the organization. PDH credits are not earned until the end of each year of service is completed.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998.*

21 NCAC 56 .1706 RECORDKEEPING

The licensee shall maintain the following records to be used to support credits claimed:

- (1) a log showing the type of activity claimed, title or specific subject, sponsoring organization, location, duration, date, instructor's or speaker's name, and PDH credits earned, and other information on a form as prescribed by the Board; and
- (2) attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance.

These records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes. The Board shall approve other records that contain the information required by this Rule.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000.*

21 NCAC 56 .1707 EXEMPTIONS

A licensee may be exempt from the professional development educational requirements for one of the following reasons:

- (1) New licensees by way of examination or comity are exempt for their first renewal period.
- (2) A licensee serving on temporary active duty in the uniformed services of the United States for a period of time exceeding 120 consecutive days in a year is exempt from obtaining the professional development hours required during that year.
- (3) The Board shall exempt a licensee if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining professional development hours. Supporting documentation must be furnished to the Board.
- (4) Licensees who list their occupation as "Inactive" on the Board approved renewal form and who are no longer providing professional engineering or land surveying services are exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be earned in accordance with the requirements of Rule .1708 in this Section before returning to active practice for each year exempted not to exceed the annual requirement for two years.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000; February 1, 1996.*

21 NCAC 56 .1709 COMITY/OUT-OF-JURISDICTION RESIDENT

Licensees who are residents of jurisdictions other than North Carolina shall meet the CPC requirements of their resident jurisdiction. If the licensee resides in a jurisdiction that has no continuing professional competency (CPC) requirement, or the licensee is exempt from the CPC requirement in the licensee's resident jurisdiction, the licensee must meet the requirements of North Carolina.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000.*

21 NCAC 56 .1712 COMPLIANCE

- (a) Compliance with annual Continuing Professional Competency (CPC) requirements shall be determined through an audit process conducted by the Board. Determination of

individuals to be audited shall be accomplished through a random selection process or as the result of information available to the Board. Individuals selected for auditing shall provide the Board with the following documentation of the CPC activities claimed for the renewal period:

- (1) Attendance verification records in the form of transcripts, completion certificates, other documents supporting evidence of attendance, and a log as defined in Rule .1706 of the Section; and
- (2) Information regarding course content, instructors and sponsoring organization, for activities presented by other than approved sponsors as defined in Rule .1713 of this Section.

(b) Attendance records shall be maintained by individual licensees for a period of three years for audit verification purposes.

History Note: Authority G.S. 89C-10(a); 89C-17; Eff. December 1, 1994; Amended Eff. May 1, 2009; February 1, 1996.

21 NCAC 56 .1713 SPONSORS

(a) The Board shall approve sponsors of Continuing Professional Competency (CPC) activities. The Board shall maintain a list of sponsors which have agreed to conduct programs in accordance with the standards of CPC activities set forth in 21 NCAC 56. 1700. Such sponsors shall indicate their agreement with the requirements by executing a Sponsor Agreement on a form provided by the Board. These sponsors shall be designated as "Approved Sponsors" based upon approval by the Board of the sponsor application and payment of a one hundred fifty dollar (\$150.00) application fee.

(b) By entering into an agreement with the Board to be designated as an "Approved Sponsor," the sponsor shall agree to:

- (1) Allow persons designated by this Board to attend any or all courses, without fee or charge, for the purpose of determining that said course meets the standards of the Board.
- (2) Allow persons designated by this Board to review course material for the purpose of determining that the course meets the standards of the Board.
- (3) State in every brochure, publication or announcement concerning the course, the general content of the course and the specific knowledge or skill to be taught or addressed, as well as the credit to be earned in Professional Development Hours (PDH).
- (4) Ensure that the instructors or presenters of the course or program are qualified to teach the subject matter.
- (5) Provide persons completing the course with written documentation attesting to that person's attendance to the course, as well as the name of the course, the date and location held, the instructor's name and the number of PDHs earned.

(6) Provide attendees an evaluation form as provided by the Board that is to be collected and retained for audit by the Board.

(7) Submit quarterly reports to the Board (whether, or not, a course was offered in that quarter) which shall include the sponsor's name, the name of the course, the date and location held, the instructor's name, the number of PDHs earned and a list of attendees.

(8) Have a visible, continuous and identifiable contact person who is charged with the administration of the sponsor's CPC program and who has the responsibility for assuring and demonstrating to the Board compliance with this Rule, as well as for any other organization working with the sponsor for the development, distribution or presentation of CPC courses or activities.

(9) Retain for a period of three years a copy of the documentation required by this Paragraph.

(c) Sponsors shall renew annually on a form provided by the Board.

(d) Failure of an approved sponsor to comply with the terms of the CPC sponsor agreement is grounds for the Board to revoke, suspend or terminate the agreement, to remove the sponsor's name from the list of approved sponsors and to notify the public of such action. A sponsor that is given notice of revocation, suspension or termination may request an administrative hearing to be conducted as provided in 21 NCAC 56 .1400 Contested Cases.

(e) Approval of a sponsor is equivalent to the language of licensing a sponsor in G.S. 89C-10(h).

History Note: Authority G.S. 89C-10; 89C-17; Eff. February 1, 1996; Amended Eff. July 1, 2009; August 1, 2002.

CHAPTER 58 – REAL ESTATE COMMISSION

21 NCAC 58A .0104 AGENCY AGREEMENTS AND DISCLOSURE

(a) Every agreement for brokerage services in a real estate transaction and every agreement for services connected with the management of a property owners association shall be in writing and signed by the parties thereto. Every agreement for brokerage services between a broker and an owner of the property to be the subject of a transaction must be in writing and signed by the parties from the time of its formation. Every agreement for brokerage services between a broker and a buyer or tenant shall be express and shall be reduced to writing and signed by the parties thereto not later than the time one of the parties makes an offer to purchase, sell, rent, lease, or exchange real estate to another. However, every agreement between a broker and a buyer or tenant which seeks to bind the buyer or tenant for a period of time or to restrict the buyer's or tenant's right to work with other agents or without an agent shall be in writing and signed by the parties thereto from its formation. A

broker shall not continue to represent a buyer or tenant without a written, signed agreement when such agreement is required by this Rule. Every written agreement for brokerage services of any kind in a real estate transaction shall provide for its existence for a definite period of time, shall include the licensee's license number, and shall provide for its termination without prior notice at the expiration of that period, except that an agency agreement between a landlord and broker to procure tenants or receive rents for the landlord's property may allow for automatic renewal so long as the landlord may terminate with notice at the end of any contract period and any subsequent renewals. For the purposes of this rule, an agreement between licensees to cooperate or share compensation shall not be considered an agreement for brokerage services and, except as required by Rule .1807 of this Subchapter, need not be memorialized in writing.

(b) Every listing agreement, written buyer agency agreement or other written agreement for brokerage services in a real estate transaction shall contain the following provision: The broker shall conduct all brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any party or prospective party. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement. For the purposes of this Rule, the term, familial status, shall be defined as it is in G.S. 41A-3(1b).

(c) In every real estate sales transaction, a broker shall, at first substantial contact directly with a prospective buyer or seller, provide the prospective buyer or seller with a copy of the publication "Working with Real Estate Agents," set forth the broker's name and license number thereon, review the publication with the buyer or seller, and determine whether the agent will act as the agent of the buyer or seller in the transaction. If the first substantial contact with a prospective buyer or seller occurs by telephone or other electronic means of communication where it is not practical to provide the "Working with Real Estate Agents" publication, the broker shall at the earliest opportunity thereafter, but in no event later than three days from the date of first substantial contact, mail or otherwise transmit a copy of the publication to the prospective buyer or seller and review it with him or her at the earliest practicable opportunity thereafter. For the purposes of this Rule, "first substantial contact" shall include contacts between a broker and a consumer where the consumer or broker begins to act as though an agency relationship exists and the consumer begins to disclose to the broker personal or confidential information.

(d) A real estate broker representing one party in a transaction shall not undertake to represent another party in the transaction without the written authority of each party. The written authority must be obtained upon the formation of the relationship except when a buyer or tenant is represented by a broker without a written agreement in conformity with the requirements of Paragraph (a) of this Rule. Under such circumstances, the written authority for dual agency must be reduced to writing not later than the time that one of the parties represented by the broker makes an offer to purchase, sell, rent, lease, or exchange real estate to another party.

(e) In every real estate sales transaction, a broker working directly with a prospective buyer as a seller's agent or subagent

shall disclose in writing to the prospective buyer at the first substantial contact with the prospective buyer that the broker represents the interests of the seller. The written disclosure shall include the broker's license number. If the first substantial contact occurs by telephone or by means of other electronic communication where it is not practical to provide written disclosure, the broker shall immediately disclose by similar means whom he represents and shall immediately mail or otherwise transmit a copy of the written disclosure to the buyer. In no event shall the broker mail or transmit a copy of the written disclosure to the buyer later than three days from the date of first substantial contact with the buyer.

(f) In every real estate sales transaction, a broker representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker represents the buyer's interests. In addition, in every real estate sales transaction other than auctions, the broker shall, no later than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase and shall include the broker's license number.

(g) The provisions of Paragraphs (c), (d) and (e) of this Rule do not apply to real estate licensees representing sellers in auction sales transactions.

(h) A broker representing a buyer in an auction sale transaction shall, no later than the time of execution of a written agreement memorializing the buyer's contract to purchase, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the written agreement.

(i) A firm which represents more than one party in the same real estate transaction is a dual agent and, through the brokers associated with the firm, shall disclose its dual agency to the parties.

(j) When a firm represents both the buyer and seller in the same real estate transaction, the firm may, with the prior express approval of its buyer and seller clients, designate one or more individual brokers associated with the firm to represent only the interests of the seller and one or more other individual brokers associated with the firm to represent only the interests of the buyer in the transaction. The authority for designated agency must be reduced to writing not later than the time that the parties are required to reduce their dual agency agreement to writing in accordance with Paragraph (d) of this Rule. An individual broker shall not be so designated and shall not undertake to represent only the interests of one party if the broker has actually received confidential information concerning the other party in connection with the transaction. A broker-in-charge shall not act as a designated broker for a party in a real estate sales transaction when a provisional broker under his or her supervision will act as a designated broker for another party with a competing interest.

(k) When a firm acting as a dual agent designates an individual broker to represent the seller, the broker so designated shall represent only the interest of the seller and shall not, without the seller's permission, disclose to the buyer or a broker designated to represent the buyer:

- (1) that the seller may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the seller's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the seller which the seller has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(l) When a firm acting as a dual agent designates an individual broker to represent the buyer, the broker so designated shall represent only the interest of the buyer and shall not, without the buyer's permission, disclose to the seller or a broker designated to represent the seller:

- (1) that the buyer may agree to a price, terms, or any conditions of sale other than those established by the seller;
- (2) the buyer's motivation for engaging in the transaction unless disclosure is otherwise required by statute or rule; and
- (3) any information about the buyer which the buyer has identified as confidential unless disclosure of the information is otherwise required by statute or rule.

(m) A broker designated to represent a buyer or seller in accordance with Paragraph (j) of this Rule shall disclose the identity of all of the brokers so designated to both the buyer and the seller. The disclosure shall take place no later than the presentation of the first offer to purchase or sell.

(n) When an individual broker represents both the buyer and seller in the same real estate sales transaction pursuant to a written agreement authorizing dual agency, the parties may provide in the written agreement that the broker shall not disclose the following information about one party to the other without permission from the party about whom the information pertains:

- (1) that a party may agree to a price, terms or any conditions of sale other than those offered;
- (2) the motivation of a party for engaging in the transaction, unless disclosure is otherwise required by statute or rule; and
- (3) any information about a party which that party has identified as confidential, unless disclosure is otherwise required by statute or rule.

History Note: Authority G.S. 41A-3(1b); 41A-4(a); 93A-3(c); 93A-9;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2009; July 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; July 1, 1997; August 1, 1996; July 1, 1995.

21 NCAC 58A .0105 ADVERTISING

(a) Blind Ads. A licensee shall not advertise the sale, purchase, exchange, rent or lease of real estate, for another or others, in a manner indicating the offer to sell, purchase, exchange, rent, or

lease is being made by the licensee's principal only. Every such advertisement shall conspicuously indicate that it is the advertisement of a broker or brokerage firm and shall not be confined to publication of only a post office box number, telephone number, street address, internet web address, or e-mail address.

(b) Registration of Assumed Name. In the event that any licensee shall advertise in any manner using a firm name or an assumed name which does not set forth the surname of the licensee, the licensee shall first file the appropriate certificate with the office of the county register of deeds in compliance with G.S. 66-68 and notify the Commission in writing of the use of such a firm name or assumed name.

(c) Authority to Advertise.

- (1) A provisional broker shall not advertise any brokerage service or the sale, purchase, exchange, rent or lease of real estate for another or others without the consent of his or her broker-in-charge and without including in the advertisement the name of the broker or firm with whom the provisional broker is associated.

- (2) A licensee shall not advertise or display a "for sale" or "for rent" sign on any real estate without the consent of the owner or his or her authorized agent.

(d) Business names. A licensee shall not include the name of a provisional broker or an unlicensed person in the name of a sole proprietorship, partnership or non-corporate business formed for the purpose of real estate brokerage.

(e) A person licensed as a limited nonresident commercial broker shall comply with the provisions of Rule .1809 of this Subchapter in connection with all advertising concerning or relating to his or her status as a North Carolina licensee.

History Note: Authority G.S. 55B-5; 66-68; 93A-3(c); 93A-9; *Eff. February 1, 1976;*

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2004; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1989; February 1, 1989.

21 NCAC 58A .0110 BROKER-IN-CHARGE

(a) Every real estate firm shall designate a broker to serve as the broker-in-charge at its principal office and a broker to serve as broker-in-charge at any branch office. No broker shall be broker-in-charge of more than one office at a time. If a firm shares office space with one or more other firms, one broker may serve as broker-in-charge of each firm at that location. No office or branch office of a firm shall have more than one designated broker-in-charge. A broker who is a sole proprietor shall designate himself or herself as a broker-in-charge if the broker engages in any transaction where the broker is required to deposit and maintain monies belonging to others in a trust account, engages in advertising or promoting his or her services as a broker in any manner, or has one or more other brokers affiliated with him or her in the real estate business. Maintenance of a trust or escrow account by a broker solely for holding residential tenant security deposits received by the

broker on properties owned by the broker in compliance with G.S. 42-50 shall not, standing alone, subject the broker to the requirement to designate himself or herself as a broker-in-charge. A broker desiring to be a broker-in-charge shall declare in writing his or her designation as broker-in-charge of an office to the Commission on a form prescribed by the Commission within 10 days following the broker's designation as broker in charge of any office. The broker-in-charge shall, in accordance with the requirements of G.S. 93A and the rules adopted by the Commission, assume the responsibility at his or her office for:

- (1) the retention of current license renewal pocket cards by all brokers employed at the office for which he or she is broker-in-charge; the proper display of licenses at such office in accordance with Rule .0101 of this Section; and assuring that each licensee employed at the office has complied with Rules .0503, .0504, and .0506 of this Subchapter;
- (2) the proper notification to the Commission of any change of business address or trade name of the firm and the registration of any assumed business name adopted by the firm for its use;
- (3) the proper conduct of advertising by or in the name of the firm at such office;
- (4) the proper maintenance at such office of the trust or escrow account of the firm and the records pertaining thereto;
- (5) the proper retention and maintenance of records relating to transactions conducted by or on behalf of the firm at such office, including those required to be retained pursuant to Rule .0108 of this Section;
- (6) the proper supervision of provisional brokers associated with or engaged on behalf of the firm at such office in accordance with the requirements of Rule .0506 of this Subchapter;
- (7) the proper supervision of all licensees employed at the office for which he or she is broker-in-charge with respect to adherence to agency agreement and disclosure requirements.

(b) When used in this Rule, the term:

- (1) "Branch Office" means any office in addition to the principal office of a broker which is operated in connection with the broker's real estate business; and
- (2) "Office" means any place of business where acts are performed for which a real estate license is required or where monies received by a licensee acting in a fiduciary capacity are handled or records for such trust monies are maintained.

(c) To qualify to become a broker-in-charge, a broker shall:

- (1) have a license on active status but not on provisional status;
- (2) possess at least two years of full-time real estate brokerage experience or equivalent part-time real estate brokerage experience within the previous five years or real estate education

or experience in real estate transactions that the Commission finds equivalent to such experience; and

- (3) complete the Commission's 12 classroom hour broker-in-charge course either within three years prior to designation as a broker-in-charge or within 120 days following designation as a broker-in-charge.

By submission of a broker-in-charge declaration to the Commission, a broker certifies that he or she possesses the experience required to become a broker-in-charge and upon acknowledgement by the Commission of a completed declaration, the broker shall receive his or her broker-in-charge designation and be authorized to act as a broker-in-charge. Upon his or her designation as broker-in-charge and completion of the broker-in-charge course within the time period prescribed in Subparagraph (b)(3) of this Rule, the designated broker-in-charge acquires the eligibility to be re-designated as a broker-in-charge at any time in the future after a period of not actively serving as a broker-in-charge without having to again satisfy the qualification requirements for initial designation stated in this Paragraph so long as the broker continuously satisfies the requirements to retain such eligibility described in Paragraph (e) of this Rule. A broker-in-charge designation shall be immediately terminated if a broker-in-charge fails to complete the broker-in-charge course during the required time period or if the Commission finds the broker-in-charge does not possess the required experience. Upon the request of the Commission, a broker shall provide to the Commission evidence that he or she possesses the required experience. A broker who is removed as broker-in-charge for failure to timely complete the Commission's 12 hour broker-in-charge course must first complete the 12 hour broker-in-charge course before he or she may again be designated as broker-in-charge. A broker-in-charge, upon written request of the Commission or a broker who has been affiliated with the broker-in-charge within the previous five years, shall provide the Commission or broker an accurate written statement regarding the broker's work at the office of the broker-in-charge, including the dates of affiliation, average number of hours worked per week, and the number and type of properties listed, sold, bought, leased, or rented for others by the licensee during his or her affiliation with the broker-in-charge.

(d) A broker who was the broker-in-charge of a real estate office on April 1, 2006, whose broker-in-charge declaration was received by the Commission prior to that date, and who completed the Commission's broker-in-charge course prior to April 1, 2006 or within 120 days following designation as a broker-in-charge, may continue to serve as a broker-in-charge thereafter until his or her eligibility to serve as a broker-in-charge is terminated as provided in Paragraph (f) of this Rule.

(e) Once a broker has been designated as a broker-in-charge and completed the 12 hour broker-in-charge course as prescribed by Paragraph (c) of this Rule, the broker may maintain broker-in-charge eligibility by timely annual renewal of his or her broker license, completion each license year of the four hour mandatory continuing education update course prescribed for all licensees and known as the "Real Estate Update Course," and completion each license year of the four hour special continuing education course prescribed by the Commission only for brokers-in-charge

and known as the "Broker-In-Charge Annual Review Course." The Broker-In-Charge Annual Review Course must be taken initially by a broker-in-charge during the first full license year following the license year in which the broker was designated as a broker-in-charge and must be taken each license year thereafter in order for the broker to maintain broker-in-charge eligibility. The Broker-In-Charge Annual Review Course shall satisfy the broker's general continuing education elective course requirement, but the broker must also take the mandatory continuing education Real Estate Update Course each license year. The Broker-In-Charge Annual Review Course is reserved exclusively for current brokers-in-charge, and brokers who are not currently acting as a broker-in-charge but who desire to retain their broker-in-charge eligibility. Only these brokers shall receive continuing education elective credit for taking the course.

(f) A broker's broker-in-charge eligibility and, if currently designated as a broker-in-charge, his or her broker-in-charge designation shall be terminated upon the occurrence of any of the following events:

- (1) The broker's license expires or the broker's license is suspended, revoked or surrendered;
- (2) the broker's license is made inactive for any reason, including failure to satisfy the continuing education requirements described in Rule .1702 of this Subchapter;
- (3) the broker fails to complete the Broker-In-Charge Annual Review Course described in Paragraph (e) of this Rule; or
- (4) the broker is found by the Commission to have not possessed the experience required in Paragraph (c) of this Rule at the time of either initial designation as a broker-in-charge or re-designation as a broker-in-charge.

When a broker who is a former broker-in-charge desires to be re-designated as a broker-in-charge following termination of his or her broker-in-charge designation or eligibility, he or she must first have a license on active status. The broker then must satisfy the experience requirements for initial designation set forth in Paragraph (c) of this Rule, and the broker must complete the 12 hour broker-in-charge course within 120 days following re-designation, except that if the broker has taken the 12 hour broker-in-charge course within the preceding three years, he or she has the option to complete the Broker-In-Charge Annual Review Course for the current license year within 120 days following re-designation as a broker-in-charge in lieu of repeating the 12 hour broker-in-charge course. If a broker who has been re-designated as a broker-in-charge and then removed as broker-in-charge due to failure to satisfy his education requirement within 120 days following re-designation subsequently seeks another re-designation as broker-in-charge, the broker must first complete the 12 hour broker-in-charge course before he or she may again be designated as a broker-in-charge, even if the broker has completed the 12 hour broker-in-charge course within the preceding three years.

(g) A broker-in-charge shall notify the Commission in writing that he or she no longer is serving as broker-in-charge of a particular office within 10 days following any such change.

(h) A licensed real estate firm is not required to designate a broker-in-charge if it:

- (1) has been organized for the sole purpose of receiving compensation for brokerage services furnished by its qualifying broker through another firm or broker;
- (2) is treated for tax purposes as a Subchapter S corporation by the United States Internal Revenue Service;
- (3) has no principal or branch office; and
- (4) has no person associated with it other than its qualifying broker.

(i) A broker-in-charge residing outside of North Carolina who is the broker-in-charge of a principal or branch office not located in North Carolina is not required to complete the broker-in-charge course or the special continuing education course prescribed for brokers-in-charge under Paragraph (e) of this Rule. However, if such broker-in-charge either becomes a resident of North Carolina or becomes broker-in-charge of an office located within North Carolina, then he or she must take the 12 hour broker-in-charge course within 120 days of such change, unless he or she has taken the 12 hour course within the preceding three years. Such broker-in-charge shall take the special broker-in-charge continuing education course prescribed in Paragraph (e) of this Rule during the first full license year following the change and each license year thereafter so long as the broker-in-charge remains a resident of North Carolina or continues to manage an office located in North Carolina.

(j) A nonresident commercial real estate broker licensed under the provisions of Section .1800 of this Subchapter shall not act as or serve in the capacity of a broker-in-charge of a firm or office in North Carolina.

History Note: Authority G.S. 93A-2; 93A-3(c); 93A-4; 93A-4.1; 93A-4.2; 93A-9;

Eff. September 1, 1983;

Amended Eff. July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2004; April 1, 2004; September 1, 2002; July 1, 2001; October 1, 2000; August 1, 1998; April 1, 1997; July 1, 1995; July 1, 1994.

21 NCAC 58A .0112 OFFERS AND SALES CONTRACTS

(a) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form unless the form describes or expressly requires the entry of the following information:

- (1) the names of the buyer and seller;
- (2) a legal description of the real property sufficient to identify and distinguish it from all other property;
- (3) an itemization of any personal property to be included in the transaction;
- (4) the purchase price and manner of payment;
- (5) any portion of the purchase price that is to be paid by a promissory note, including the amount, interest rate, payment terms, whether or not the note is to be secured, and other material terms;

- (6) any portion of the purchase price that is to be paid by the assumption of an existing loan, including the amount of such loan, costs to be paid by the buyer or seller, the interest rate and number of discount points and a condition that the buyer must be able to qualify for the assumption of the loan and must make every reasonable effort to qualify for the assumption of the loan;
 - (7) the amount of earnest money, if any, the method of payment, the name of the broker or firm that will serve as escrow agent, an acknowledgment of earnest money receipt by the escrow agent, and the criteria for determining disposition of the earnest money, including disputed earnest money, consistent with Rule .0107 of this Subchapter;
 - (8) any loan that must be obtained by the buyer as a condition of the contract, including the amount and type of loan, interest rate and number of discount points, loan term, and who shall pay loan closing costs; and a condition that the buyer shall make every reasonable effort to obtain the loan;
 - (9) a general statement of the buyer's intended use of the property and a condition that such use must not be prohibited by private restriction or governmental regulation;
 - (10) the amount and purpose of any special assessment to which the property is subject and the responsibility of the parties for any unpaid charges;
 - (11) the date for closing and transfer of possession;
 - (12) the signatures of the buyer and seller;
 - (13) the date of offer and acceptance;
 - (14) a provision that title to the property must be delivered at closing by general warranty deed and must be fee simple marketable title, free of all encumbrances except ad valorem taxes for the current year, utility easements, and any other encumbrances approved by the buyer, or a provision otherwise describing the estate to be conveyed, and encumbrances, and the form of conveyance;
 - (15) the items to be prorated or adjusted at closing;
 - (16) who shall pay closing expenses;
 - (17) the buyer's right to inspect the property prior to closing and who shall pay for repairs and improvements, if any;
 - (18) a provision that the property shall at closing be in substantially the same condition as on the date of the offer (reasonable wear and tear excepted), or a description of the required property condition at closing; and
 - (19) a provision setting forth the identity of each real estate agent and firm involved in the transaction and disclosing the party each agent and firm represents.
- (b) The provisions of this Rule apply only to preprinted offer and sales contract forms which a broker acting as an agent in a real estate transaction proposes for use by the buyer and seller. Nothing contained in this Rule shall be construed to prohibit the buyer and seller in a real estate transaction from altering, amending or deleting any provision in a form offer to purchase or contract; nor shall this Rule be construed to limit the rights of the buyer and seller to draft their own offers or contracts or to have the same drafted by an attorney at law.
- (c) A broker acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form containing the provisions or terms listed in Subparagraphs (b)(1) and (2) of this Rule. A broker or anyone acting for or at the direction of the broker shall not insert or cause to be inserted into any such preprinted form, even at the direction of the parties or their attorneys, the following provisions and terms:
- (1) any provision concerning the payment of a commission or compensation, including the forfeiture of earnest money, to any broker or firm; or
 - (2) any provision that attempts to disclaim the liability of a broker for his or her representations in connection with the transaction.

History Note: Authority G.S. 93A-3(c); Eff. July 1, 1988; Amended Eff. July 1, 2009; April 1, 2006; October 1, 2000; July 1, 1995; July 1, 1989; February 1, 1989.

21 NCAC 58A .0113 REPORTING CRIMINAL CONVICTIONS AND DISCIPLINARY ACTIONS

Any broker who is convicted of any felony or misdemeanor, or who is disciplined by any governmental agency in connection with any other occupational license, or whose notarial commission is restricted, suspended, or revoked, shall file with the Commission a written report of such conviction or action within 60 days of the final judgment, order, or disposition in the case. A form for this report is available from the Commission.

History Note: Authority G.S. 93A-3(c); 93A-6(a); 93A-6(a)(10); 93A-6(b)(2); Eff. August 1, 1996; Amended Eff. July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2003; July 1, 2000.

21 NCAC 58A .0114 RESIDENTIAL PROPERTY DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type contemplated by Chapter 47E of the General Statutes, shall complete the following residential property disclosure statement and furnish a copy of the complete statement to a purchaser in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

**STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY DISCLOSURE STATEMENT**

Instructions to Property Owners

1. G.S. 47E requires owners of residential real estate (single-family homes and buildings with up to four dwelling units) to furnish purchasers a property disclosure statement. This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option and sale under a lease with option to purchase (unless the tenant is already occupying or intends to occupy the dwelling). A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must check ☒ one of the boxes for each of the 21 questions on the reverse side of this form.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No", you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation", you have no duty to disclose the conditions or characteristics of the property, even if you should have known of them.
 - * If you check "Yes" or "No" and something happens to the property to make your Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Statement to the purchasers; and the broker must disclose any material facts about your property which they know or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "**Note to Purchasers**" below). You should give the purchaser a copy of the Statement containing your signature and keep a copy signed by the purchaser for your records.

Note to Purchasers

If the owner does not give you a Residential Property Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract and be entitled to a refund of any deposit monies you may have paid. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____
Owner's Name(s): _____
Owner(s) acknowledge having examined this Statement before signing and that all information is true and

correct as of the date signed.

Owner Signature: _____ Date _____, ____

Owner Signature: _____ Date _____, ____

Purchaser(s) acknowledge receipt of a copy of this disclosure statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owner and not the owner's agent(s) or subagent(s). Purchaser(s) are encouraged to obtain their own inspection from a licensed home inspector or other professional.

Purchaser Signature: _____ Date _____, ____

Purchaser Signature: _____ Date _____, ____

Property Address/Description: _____

[Note: In this form, "property" refers only to dwelling unit(s) and not sheds, detached garages or other buildings.]

Regarding the property identified above, do you know of any problem (malfunction or defect) with any of the following:

	Yes*	No	No Representation
1. FOUNDATION, SLAB, FIREPLACES/CHIMNEYS, FLOORS, WINDOWS (INCLUDING STORM WINDOWS AND SCREENS), DOORS, CEILINGS, INTERIOR AND EXTERIOR WALLS, ATTACHED GARAGE, PATIO, DECK OR OTHER STRUCTURAL COMPONENTS including any modifications to them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Siding is: <input type="checkbox"/> Masonry <input type="checkbox"/> Wood <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Other _____			<input type="checkbox"/>
b. Approximate age of structure? _____			<input type="checkbox"/>
2. ROOF (leakage or other problem)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Approximate age of roof covering? _____			<input type="checkbox"/>
3. WATER SEEPAGE, LEAKAGE, DAMPNES OR STANDING WATER in the basement, crawl space or slab?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. ELECTRICAL SYSTEM (outlets, wiring, panel, switches, fixtures etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. PLUMBING SYSTEM (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. HEATING AND/OR AIR CONDITIONING?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Heat Source is: <input type="checkbox"/> Furnace <input type="checkbox"/> Heat Pump <input type="checkbox"/> Baseboard <input type="checkbox"/> Other _____			<input type="checkbox"/>
b. Cooling Source is: <input type="checkbox"/> Central Forced Air <input type="checkbox"/> Wall/Window Unit(s) <input type="checkbox"/> Other _____			<input type="checkbox"/>
c. Fuel Source is: <input type="checkbox"/> Electricity <input type="checkbox"/> Natural Gas <input type="checkbox"/> Propane <input type="checkbox"/> Oil <input type="checkbox"/> Other _____			<input type="checkbox"/>
7. WATER SUPPLY (including water quality, quantity and water pressure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Water supply is: <input type="checkbox"/> City/County <input type="checkbox"/> Community System <input type="checkbox"/> Private Well <input type="checkbox"/> Other _____			<input type="checkbox"/>
b. Water pipes are: <input type="checkbox"/> Copper <input type="checkbox"/> Galvanized <input type="checkbox"/> Plastic <input type="checkbox"/> Other _____ <input type="checkbox"/> Unknown			<input type="checkbox"/>

8. SEWER AND/OR SEPTIC SYSTEM? ☐ ☐ ☐
- a. Sewage disposal system is: ☐ Septic Tank ☐ Septic Tank with Pump
☐ Community System ☐ Connected to City/County System
☐ City/County System available ☐ Straight pipe (wastewater does not go into a septic or other sewer system [note: use of this type of system violates state law]) ☐
☐ Other _____
9. BUILT-IN APPLIANCES (RANGE/OVEN, ATTACHED MICROWAVE, HOOD/FAN, DISHWASHER, DISPOSAL, etc.)? ☐ ☐ ☐
10. PRESENT INFESTATION, OR DAMAGE FROM PAST INFESTATION OF WOOD DESTROYING INSECTS OR ORGANISMS which has not been repaired? ☐ ☐ ☐
11. DRAINAGE, GRADING OR SOIL STABILITY OF LOT? ☐ ☐ ☐
12. OTHER SYSTEMS AND FIXTURES: CENTRAL VACUUM, POOL, HOT TUB, SPA, ATTIC FAN, EXHAUST FAN, CEILING FAN, SUMP PUMP, IRRIGATION SYSTEM, TV CABLE WIRING OR SATELLITE DISH, OR OTHER SYSTEMS? ☐ ☐ ☐
- Also regarding the property identified above, including the lot, other improvements, and fixtures located thereon, do you have any**
13. ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES ? ☐ ☐ ☐
14. ENVIRONMENTAL HAZARDS (substances, materials or products) including asbestos, formaldehyde, radon gas, methane gas, lead-based paint, underground storage tank, or other hazardous or toxic material (whether buried or covered), contaminated soil or water, or other environmental contamination)? ☐ ☐ ☐
15. COMMERCIAL OR INDUSTRIAL NUISANCES (noise, odor, smoke, etc.) affecting the property? ☐ ☐ ☐
16. VIOLATIONS OF ZONING ORDINANCES, RESTRICTIVE COVENANTS OR OTHER LAND-USE RESTRICTIONS, OR BUILDING CODES INCLUDING THE FAILURE TO OBTAIN PROPER PERMITS FOR ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES(S)? ☐ ☐ ☐
17. UTILITY OR OTHER EASEMENTS, SHARED DRIVEWAYS, PARTY WALLS OR ENCROACHMENTS FROM OR ON ADJACENT PROPERTY? ☐ ☐ ☐
18. LAWSUITS, FORECLOSURES, BANKRUPTCY, TENANCIES, JUDGMENTS, TAX LIENS, PROPOSED ASSESSMENTS, MECHANICS' LIENS, MATERIALMENS' LIENS, OR NOTICE FROM ANY GOVERNMENTAL AGENCY that could affect title to the property? ☐ ☐ ☐
19. OWNERS' ASSOCIATION OR "COMMON AREA" EXPENSES OR ASSESSMENTS? ☐ ☐ ☐
20. FLOOD HAZARD or that the property is in a FEDERALLY-DESIGNATED FLOOD PLAIN? ☐ ☐ ☐
21. PRIVATE ROAD(S) OR STREETS adjoining the property? ☐ ☐ ☐
- a. If yes, do you know of an existing owner's association or maintenance agreement to maintain the road or street? ☐ ☐ ☐

* If you answered "Yes" to any of the above questions, please explain (Attach additional sheets, if necessary):

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the form shall not be altered or amended in any way.

History Note: Authority G.S. 47E-4(b); 93A-3(c); 93A-6;

Eff. October 1, 1998;

Amended Eff. July 1, 2009; January 1, 2008; July 1, 2006; September 1, 2002; July 1, 2000.

21 NCAC 58A .0405 CONFIDENTIALITY OF EXAMINATIONS

Licensing examinations are the exclusive property of the Commission and are confidential. No applicant or licensee shall obtain, attempt to obtain, receive, or communicate to other persons examination questions or answers. Violation of this Rule is grounds for denial of a real estate license if the violator is an applicant and disciplinary action if the violator is a licensee or becomes a licensee prior to the discovery of the violation by the Commission.

History Note: Authority G.S. 93A-3(c); 93A-4(d); 93A-6;

Eff. December 1, 1985;

Amended Eff. July 1, 2009.

21 NCAC 58A .0502 BUSINESS ENTITIES

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker. An entity that changes its business form other than by conversion shall submit a new license application immediately upon making the change and obtain a new firm license. An entity which converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes is not required to apply for a new license. However, such converted entity shall provide the information required by this Paragraph in writing to the Commission within 10 days of said conversion and shall include the applicable fee to have the firm license reissued in the legal name of the converted entity. Incomplete applications shall not be acted upon by the Commission. Application forms for partnerships, corporations, limited liability companies, associations and other business entities required to be licensed as brokers shall be available upon request to the Commission and shall require the applicant to set forth:

- (1) the name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if required to be registered with the Office of the NC Secretary of State;
- (6) the name, real estate license number and signature of the proposed qualifying broker for the proposed firm;
- (7) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(b) of this Subchapter, along with a

- completed broker-in-charge declaration form for each proposed broker-in-charge;
- (8) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- (9) any past revocation, suspension or denial of a business or professional license of any principal in the company or any proposed broker-in-charge;
- (10) if a general partnership, a full description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the several partners;
- (11) if a business entity other than a corporation, limited liability company or partnership, a full description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
- (12) if a foreign business entity, a certificate of authority to transact business in North Carolina and an executed consent to service of process and pleadings; and
- (13) any other information required by this Rule.

When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission shall require the applicant to declare in the license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons and similar information. For purposes of this Rule, the term principal, when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner or who holds any other comparable position.

(b) After filing a written application with the Commission and upon a showing that at least one principal of the business entity holds a broker license on active status and in good standing and will serve as qualifying broker of the entity, the entity shall be licensed provided it appears that the applicant entity employs and is directed by personnel possessed of the requisite truthfulness, honesty, and integrity. The qualifying broker of a partnership of any kind must be a general partner of the partnership; the qualifying broker of a limited liability company must be a manager of the company; and the qualifying broker of a corporation must be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another

licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure the performance of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(c) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(d) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as office and branch office are defined in Rule .0110(b) of this Subchapter;
- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's renewal pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within ten days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0107 of this Subchapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time for which said records are required to be retained by Rule .0108 of this Subchapter; and
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0107(e) of this Subchapter.

(e) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence and authority to do business in North Carolina. Failure

to conform to such requirements is grounds for disciplinary action or denial of the entity's application for licensure. Upon receipt of notice from an entity or agency of this state that a licensed entity has ceased to exist or that its authority to engage in business in this state has been terminated by operation of law, the Commission shall cancel the license of the entity.

History Note: Authority G.S. 55-11A-04; 93A-3(c); 93A-4(a),(b),(d);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; January 1, 1997; July 1, 1994; May 1, 1990.

21 NCAC 58A .0504 ACTIVE AND INACTIVE LICENSE STATUS

(a) Except for licenses that have expired or that have been canceled, revoked, suspended or surrendered, all licenses issued by the Commission shall be designated as being either on active status or inactive status. The holder of a license on active status may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on inactive status may not engage in any activity requiring a real estate license, including the referral for compensation of a prospective seller, buyer, landlord or tenant to another real estate licensee or any other party. A licensee holding a license on inactive status must renew the license and pay the prescribed license renewal fee in order to continue to hold the license. The Commission may take disciplinary action against a licensee holding a license on inactive status for any violation of G.S. 93A or any rule adopted by the Commission, including the offense of engaging in an activity for which a license is required while a license is on inactive status.

(b) A license issued to a provisional broker shall, upon initial licensure, be assigned to inactive status, except that a license issued to a provisional broker based on reciprocity with another licensing jurisdiction shall be assigned to active status. A license issued to a firm or a broker other than a provisional broker shall be assigned to active status. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker may change the status of his or her license from active to inactive status by submitting a written request to the Commission. A provisional broker's license shall be assigned by the Commission to inactive status when the provisional broker is not under the active, direct supervision of a broker-in-charge. A firm's license shall be assigned by the Commission to inactive status when the firm does not have a qualifying broker with an active license. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker shall also be assigned to inactive status if, upon the second renewal of his or her license following initial licensure, or upon any subsequent renewal, he or she has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.

(c) A provisional broker with an inactive license who desires to have the license placed on active status must comply with the procedures prescribed in Rule .0506 of this Section.

(d) A broker, other than a provisional broker, with an inactive license who desires to have the license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the broker, a statement that the broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the date of the request, and the signature of the broker. Upon the mailing or delivery of this form, the broker may engage in real estate brokerage activities requiring a license; however, if the broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the broker shall immediately terminate his or her real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the broker is notified that he or she is not eligible for license activation due to a continuing education deficiency, the broker must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(e) A firm with an inactive license which desires to have its license placed on active status shall file with the Commission a request for license activation containing identifying information about the firm and its qualifying broker and satisfy the requirements of Rule .0110 of this Subchapter. If the qualifying broker has an inactive license, he or she must satisfy the requirements of Paragraph (d) of this Rule. Upon the mailing or delivery of the completed form by the qualifying broker, the firm may engage in real estate brokerage activities requiring a license; however, if the firm's qualifying broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the firm shall immediately terminate its real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the qualifying broker is notified that the firm is not eligible for license activation due to a continuing education deficiency on the part of the qualifying broker, the firm must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(f) A person licensed as a broker under Section .1800 of this Subchapter shall maintain his or her license on active status at all times as required by Rule .1804 of this Subchapter.

History Note: Authority G.S. 93A-3(c); 93A-4(d); 93A-4.1; 93A-6; 93A-9;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2009; April 1, 2006; July 1, 2005; July 1, 2004; October 1, 2000; April 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; February 1, 1989; December 1, 1985.

21 NCAC 58A .0505 REINSTATEMENT OF EXPIRED LICENSE, REVOKED, SURRENDERED OR SUSPENDED LICENSE

(a) Licenses expired for not more than six months may be reinstated upon the submission of payment of a fifty-five dollar (\$55.00) reinstatement fee. In order to reinstate the license on active status, the person requesting reinstatement shall have

obtained the continuing education as is required by Rule .1703 of this Subchapter to change an inactive license to active status. A person reinstating a license on inactive status is not required to have obtained any continuing education in order to reinstate the license; however, in order to subsequently change his or her reinstated license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of this Subchapter, and be supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section.

(b) Reinstatement of licenses expired for more than six months or provisional broker licenses cancelled pursuant to G.S. 93A-4(a) shall be considered upon the submission of a complete and accurate application and payment of a fifty-five dollar (\$55.00) reinstatement fee. Applicants must satisfy the Commission that they possess the current knowledge, skills and competence, as well as the truthfulness, honesty and integrity, necessary to function in the real estate business in a manner that protects and serves the public interest. To demonstrate knowledge, skills and competence, the Commission may require the applicants to complete real estate education or pass the license examination or both.

(c) Reinstatement of a revoked license shall be considered upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(d) Reinstatement of a license surrendered under the provisions of G.S. 93A-6(e) shall be considered upon termination of the period of surrender specified in the order approving the surrender and upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(e) When a license is suspended by the Commission, the suspended license shall be restored at the end of the period of active suspension provided that any applicable license renewal fees that accrued during the time of the suspension are paid by the licensee within 60 days from the end of the period of license suspension. In order for the license to be restored on active status, the licensee shall demonstrate that the licensee has satisfied the continuing education requirement for license activation prescribed by Rule .1703 of this Subchapter and that the licensee is supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section, if applicable. Failure to pay the accrued license renewal fees within the time set forth in this Paragraph shall result in expiration of the license effective the last day of the suspension period. A former licensee whose license expires under this Paragraph and who thereafter seeks reinstatement must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(f) Whenever a license is reinstated by the Commission following expiration for more than six months, cancellation, revocation, or voluntary surrender, the date of licensure for the

licensee shall be the date of reinstatement and not the date of original licensure.

History Note: Authority G.S. 93A-3(c); 93A-4(c),(d); 93A-4.1;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. July 1, 2009; January 1, 2008; April 1, 2004; July 1, 2000; August 1, 1998; July 1, 1996; August 1, 1995; July 1, 1995.

21 NCAC 58A .1904 DENIAL OR WITHDRAWAL OF POSTLICENSING EDUCATION CREDIT

(a) The Commission may deny postlicensing education credit claimed by a provisional broker or reported by a school for a provisional broker, and may withdraw postlicensing education credit previously awarded by the Commission to a provisional broker and make appropriate license status changes for that licensee upon finding that:

- (1) the provisional broker or school provided incorrect or incomplete information to the Commission concerning postlicensing education completed by the provisional broker;
- (2) the provisional broker was mistakenly awarded postlicensing education credit due to an administrative error; or
- (3) the provisional broker attended a postlicensing course while concurrently attending a different postlicensing course at the same school or a different school if such concurrent attendance in the two courses resulted in the provisional broker participating in postlicensing course sessions for more than 21 classroom hours in any given seven-day period.

(b) When postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker remains responsible for satisfying the postlicensing education requirement in a timely manner.

(c) A licensee who obtains or attempts to obtain postlicensing education credit through misrepresentation of fact, dishonesty or other improper conduct is subject to disciplinary action pursuant to G.S. 93A-6.

History Note: Authority G.S. 93A-4;

Eff. April 1, 2006;

Amended Eff. July 1, 2009.

21 NCAC 58C .0203 SCHOOL NAME

The official name of any licensed private real estate school must contain the words "real estate" and other descriptive words which identify the school as a real estate school and which distinguish the school from other licensed private real estate schools and from continuing education course sponsors approved by the Commission. If the official school name includes the name of a person or business entity that is not an

owner of the school, then the school owner must have the express permission of such person or business. The official school name shall not include words or terms such as "online," ".com," ".org," ".net," "computer-based," "correspondence" or similar words or terms that might imply to prospective students that the real estate prelicensing and postlicensing courses are available through the school utilizing an instructional delivery method not permitted by the Commission. The school name must be used in all school publications and advertising.

History Note: Authority G.S. 93A-4; 93A-33;

Eff. October 1, 1980;

Amended Eff. September 1, 1984;

Transferred and Recodified from 21 NCAC 58A .1303 Eff. November 27, 1989;

Amended Eff. July 1, 2009; April 1, 2006; July 1, 1994; July 1, 1990.

21 NCAC 58C .0304 COURSE COMPLETION STANDARDS

(a) Academic standards for prelicensing and postlicensing course completion shall reasonably assure that students receiving a passing grade possess knowledge and understanding of the subject areas prescribed for the course adequate to demonstrate a student's competency with due regard to the paramount interests of the public. A student's grade shall be based solely on his or her performance on examinations and on graded homework and classwork assignments.

(b) Prelicensing and postlicensing course completion requirements shall include obtaining a grade of at least 75 percent on a comprehensive final course examination that covers all prescribed subject areas and completing any mandatory graded homework or class work assignments in a way which demonstrates mastery of the subject matter. Take home or open book final course examinations are prohibited. Schools and instructors may utilize other course tests in addition to the final course examination provided that a student's grade on the final course examination accounts for at least 75 percent of the student's grade for the course.

(c) Prelicensing course final examinations may be provided by the Commission for use by approved schools and instructors and, if so provided, schools and instructors may use those examinations. If the Commission does not provide such examinations, or if a school or instructor elects not to use Commission-provided examinations, the school or instructor shall use a comprehensive examination which tests student's knowledge and mastery of the course subject matter. The examination shall be subject to review and approval by the Commission in accordance with the standards prescribed in G.S. 93A-4(a) and (d) and Paragraph (a) of this Rule. Schools may, within 90 days of the course ending date, allow a prelicensing course student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course. If examinations provided by the Commission are used, any makeup or repeat examination shall consist of a different form of the examination that the one previously administered in the student's course. If examinations not provided by the Commission are used, any makeup or repeat examination shall be comparable to the initial

examination with regard to the number of questions, subject areas tested and overall difficulty, and at least 75 percent of the questions shall be different from those used on the initial examination.

(d) Postlicensing course final examinations shall be provided by the Commission and shall be used by approved instructors and schools. Schools shall, within 90 days of the course ending date, allow a postlicensing course student one opportunity to make up any missed course final examination or to retake any failed course final examination without repeating the course; however, if a makeup or repeat examination is requested by a student to be taken at the earliest possible opportunity, the school must provide an opportunity for the student to take such examination within seven days of the student's request. Any makeup or repeat examination shall consist of a different form of the examination than the one previously administered in the student's course.

(e) Schools and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

- (1) Maintaining examinations and answer keys in a secure place accessible only to the instructor or school officials;
- (2) Prohibiting students from retaining copies of examinations, answer sheets, and closing statement forms or scratch paper containing notes or calculations that jeopardize examination security; and
- (3) Monitoring students at all times when examinations are being administered.

(f) Any student who is found by an instructor or other school official to have cheated in any manner on any course examination shall be dismissed from the course in which enrolled and shall not be awarded a passing grade for the course or any credit for partial completion of the course. The cheating incident shall be reported in writing to the Commission within 10 days of the incident.

(g) The minimum attendance required for satisfactory course completion shall be 80 percent of all scheduled classroom hours for the course.

History Note: Authority G.S. 93A-4;

Eff. September 1, 1979;

Amended Eff. April 1, 1987; September 1, 1984;

Recodified Paragraphs (d) and (e) to Rule 58A .1113 (a) and (b) Eff. January 6, 1989;

Amended Eff. February 1, 1989;

Transferred and Recodified from 21 NCAC 58A .1105 Eff. November 27, 1989;

Amended Eff. July 1, 2009; April 1, 2006; September 1, 2002; July 1, 2000.

21 NCAC 58C .0305 COURSE SCHEDULING

(a) All courses must have fixed beginning and ending dates, and schools may not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment is permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0304(g) of this Section.

(b) Courses shall not have class meetings that exceed six classroom hours in any given day and 21 classroom hours in any given seven-day period. However, a school that conducts courses with class meetings that do not exceed a total of 15 classroom hours in any seven-day period may conduct individual class meetings of up to 7 1/2 hours in any given day. A school may request approval to conduct postlicensing courses that involve an accelerated schedule of up to 30 classroom hours within a seven-day period and the Commission shall grant such approval if the school demonstrates to the Commission that the course will be conducted in a manner that will not compromise instructional quality and course standards. When considering such a request, the Commission will take into consideration the proposed class schedule, the school's instructional plan, including a plan for assuring that students have a reasonable opportunity to perform required out-of-class reading and other assignments, the instructor's experience in teaching prelicensing and postlicensing courses, the license examination performance of the instructor's former prelicensing course students, and similar factors. A school granted approval to conduct postlicensing courses that involve an accelerated schedule that exceeds the basic scheduling restrictions prescribed by this Rule shall assure that such courses are conducted in a manner that complies with all applicable Commission rules and the instructional plan submitted to the Commission.

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

History Note: Authority G.S. 93A-4(a),(d);

Eff. September 1, 1979;

Amended Eff. February 1, 1989; August 1, 1980;

Transferred and Recodified from 21 NCAC 58A .1107 Eff. November 27, 1989;

Amended Eff. July 1, 2009; April 1, 2006; October 1, 2000; July 1, 1996; July 1, 1994; July 1, 1993.

21 NCAC 58C .0309 COURSE COMPLETION REPORTING

(a) Schools shall provide each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards a course completion certificate in a format prescribed by this Rule. In addition to information identifying the course, student and instructor, the certificate must include the official letterhead of the school and must have the original signature or a signature stamp in a color other than black of the director, dean or other school official responsible for supervising the conduct of the course.

(b) Schools shall prepare and submit to the Commission accurate reports verifying completion of a prelicensing or postlicensing course for each student who completes a prelicensing or postlicensing course in compliance with Commission rules and school course completion standards. Such reports shall include students' names (full legal name for prelicensing course students), students' license numbers (for postlicensing course students), students' unique identification

number (for prelicensing course students), course dates, school and course code numbers, instructor's name and code number (for prelicensing courses), and course information presented in the format prescribed by the Commission, and shall be transmitted electronically via the Internet to the Commission within seven calendar days following the course. Schools shall electronically submit with postlicensing course completion reports the per student fee prescribed by G.S. 93A-4(a2).

History Note: Authority G.S. 93A-4(a),(d); 93A-33; Eff. September 1, 1979; Amended Eff. February 1, 1989; September 1, 1984; January 1, 1981; Transferred and Recodified from 21 NCAC 58A .1111 Eff. November 27, 1989; Amended Eff. July 1, 2009; January 1, 2008; April 1, 2006; July 1, 1994; May 1, 1990.

21 NCAC 58C .0313 NOTICE OF SCHEDULED COURSES

- (a) Schools shall provide the Commission written notice of all scheduled postlicensing course offerings not later than 10 days prior to a scheduled course beginning date. The notice shall include the name and assigned number for the school and, for each scheduled course, the name and assigned number for the course, the scheduled beginning and ending dates, the course meeting days and times (including any scheduled lunch breaks), the specific location and the name of the instructor.
- (b) Schools shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course beginning date. If a last minute change or cancellation is necessary due to some unforeseen circumstance, then notice shall be provided to the Commission as soon as possible.

History Note: Authority G.S. 93A-4(a1),(d); 93A-33; Eff. January 1, 2008; Amended Eff. July 1, 2009.

21 NCAC 58E .0310 DISTANCE EDUCATION COURSES

(a) As used in this Chapter, the term "distance education" means educational programs in which instruction is accomplished through the use of media whereby teacher and student are separated by distance and sometimes by time. An entity requesting approval of a distance education course must, in addition to satisfying all other requirements for elective course approval specified in this Section, demonstrate that the proposed distance education course satisfies the following criteria:

- (1) The course shall be designed to assure that students actively participate in the instructional process while completing the course by utilizing techniques that require student interaction with the instructor, other students or a computer program at frequent intervals throughout each class period. The course design must not permit students to merely sit passively and observe instruction or read instructional materials. If the nature of

the subject matter is such that the learning objectives for the course cannot be reasonably accomplished without some direct interaction between the instructor and students, then the course design must provide for such interaction.

- (2) A course that does not provide the opportunity for continuous audio and visual communication between the instructor and all students during the course presentation shall utilize testing and remedial processes appropriate to assure student mastery of the subject material.
- (3) A course that involves students completing the course on a self-paced study basis shall be designed so that the time required for a student of average ability to complete the course will be at least four hours, and the sponsor shall utilize a system that assures that students have actually performed all tasks designed to assure student participation and mastery of the subject material. The number of equivalent classroom hours assigned by the course sponsor or developer to the course must be supported by studies or field tests, and the applicant must submit a description of such studies or field tests with the course application.
- (4) The proposed instructional delivery methods shall be appropriate to enable effective accomplishment of the proposed learning objectives and the scope and depth of the instructional materials must also be consistent with the proposed learning objectives.
- (5) The sponsor shall provide appropriate technical support to enable students to satisfactorily complete the course.
- (6) An instructor shall be available to respond to student questions about the subject matter of the course and to direct students to additional sources of information. Instructors shall have training in the proper use of the instructional delivery method utilized in the course, including the use of computer hardware and software or other equipment and systems.
- (7) The sponsor shall provide students an orientation or information package which contains all information required by the Commission to be provided to students and all necessary information about the course, including information about course fees and refund policies, course subject matter and learning objectives, procedures and requirements for satisfactory course completion, any requirements with regard to computer hardware and software or other equipment, and instructor and technical support.

(b) An entity seeking approval of a computer-based distance education course must submit a complete copy of the course on the medium that is to be utilized and, if requested, must make available, at a date and time satisfactory to the Commission and at the sponsor's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an internet-based course, the Commission must be provided access to the course via the internet at a date and time satisfactory to the Commission and shall not be charged any fee for such access.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1996;
Amended Eff. July 1, 2009; July 1, 2005; July 1, 2000.

21 NCAC 58E .0511 STUDENT PARTICIPATION STANDARDS

(a) In addition to requiring student compliance with the attendance requirement, sponsors and instructors shall require that students comply with the following student participation standards:

- (1) A student shall direct his or her undivided attention to the instruction being provided and refrain from engaging in activities unrelated to the instruction.
- (2) A student shall refrain from engaging in any activities which are distracting to other students or the instructor, or which otherwise disrupt the orderly conduct of a class.
- (3) A student shall comply with all instructions provided by the sponsor or instructor related to providing information needed to properly report completion of a course by the student.
- (4) A student taking a distance education course shall personally perform all work required to complete the course.

(b) Instructors and sponsors have the authority to dismiss from a class session any student who fails to comply with the student participation standards prescribed in Paragraph (a) of this Rule.

(c) Sponsors shall not issue a course completion certificate to any student who fails to comply with the student participation standards set forth in Paragraph (a) of this Rule, nor shall sponsors include the name of such student on their reports verifying completion of a continuing education course. Sponsors shall submit to the Commission with their course completion reports a written statement which includes the name and license number of the student for whom the sponsor does not report course credit, details concerning the student's failure to comply with the student participation standards, and names of other persons who can attest to the student's conduct.

History Note: Authority G.S. 93A-3(c); 93A-4A;
Eff. July 1, 1994;
Amended Eff. July 1, 2009; October 1, 2000; July 1, 1996.

21 NCAC 58F .0101 BASIC REQUIREMENT
21 NCAC 58F .0102 COURSE CONTENT
21 NCAC 58F .0103 COURSE SPONSORS AND INSTRUCTORS

21 NCAC 58F .0104 COURSE OPERATIONAL REQUIREMENTS
21 NCAC 58F .0105 COURSE COMPLETION REPORTING AND PER STUDENT FEE
21 NCAC 58F .0106 WITHDRAWAL OF SPONSOR AND INSTRUCTOR APPROVAL

History Note: Authority G.S. 93A-4; 93A-4.3;
Eff. April 1, 2006;
Repealed Eff. July 1, 2009.

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

23 NCAC 02C .0110 INTERCOLLEGIATE ATHLETICS

(a) No college shall operate an intercollegiate athletic program or team unless the college maintains a membership in good standing with the National Junior College Athletic Association and Region 10. For the purposes of this Rule, "intercollegiate athletic program or team" does not include club teams.

(b) A college shall not participate in intercollegiate athletics unless any foundation associated with the college pursuant to G.S. 115D-20(9) adopts a policy requiring that the total amount of all athletic scholarships awarded to an individual student-athlete does not exceed the participating student's expenses for tuition, college fees, and course-related books and materials required for the courses in which that student is enrolled.

(c) A college shall not participate in intercollegiate athletics unless the total amount of all athletic scholarships the college awards plus the total amount of all athletic scholarships awarded by any foundation associated with the college pursuant to G.S. 115D-20(9) does not exceed the participating student's expenses for tuition, college fees, and course-related books and materials required for the courses in which that student is enrolled.

(d) State funds shall not be used to create, support, maintain, or operate an intercollegiate athletics program.

(e) Colleges shall neither provide nor offer room and board as part of an intercollegiate athletic scholarship to any student participating in an intercollegiate athletics sport except for temporary room and board associated with specific athletic events.

(f) For the purposes of this Rule, tuition waivers granted are limited to those authorized by statute. Tuition waivers obtained by students participating in any intercollegiate athletics sport shall be deemed to be a scholarship for tuition.

History Note: Authority G.S. 115D-5;
Eff. August 1, 2009.

23 NCAC 02D .0202 TUITION AND FEES FOR CURRICULUM PROGRAMS

(a) Tuition:

- (1) Student Residence Classification. The classification of students for tuition purposes shall be made pursuant to G.S. 115B-2, 115D-39, 116-143.1, 116-143.3, and 116-143.5.

- (2) Tuition Rates In-State:
 - (A) A general and uniform tuition rate is established by the State Board as set by the Legislature for full-time curriculum students per semester or term for North Carolina residents.
 - (B) A North Carolina resident who is a part-time student shall pay a per credit hour rate for curriculum instruction, as established by the State Board, for any semester or term as set by the Legislature.
 - (3) Learning Laboratory. No tuition fees charged.
 - (4) Tuition Creditable Upon Transfer of Student. When a student has paid the required tuition at a college and is given permission to transfer to another college within the system during the academic semester for which the tuition was paid, the college from which the student transfers shall issue to him a statement certifying the amounts of tuition that have been paid, and the college to which he is transferring shall accept such certificate in lieu of requiring payment again. [Also, see 23 NCAC 02D .0323(b)(2) which provides information regarding reporting student hours in membership.]
 - (5) Tuition Student Enrolled in More Than One College. Where a student desires to enroll for the same semester at two or more colleges of the system, the total amount of tuition and fees may be paid to the student's "home" college. "Home" college is defined as the college which the student initially registers for classes. The "home" college shall, in that case, assume responsibility for arranging with the other college or colleges for enrolling the student in appropriate classes without further charge. Such arrangement shall be made by exchange of letters between the colleges involved. Student membership hours for instruction received shall be reported by the college in which the respective instruction occurred.
 - (6) Tuition Rates Out-of-State:
 - (A) Any full-time curriculum student who is an out-of-state resident shall pay tuition fees as established by the State Board for each semester or term as set by the Legislature.
 - (B) An out-of-state resident who is a part-time student shall pay a per credit hour rate for curriculum instruction as established by the State Board as set by the Legislature.
 - (7) Tuition Waivers:
 - (A) Individuals in the categories set forth in G.S. 115D-5(b) shall be exempt from tuition for specialized training courses only, unless otherwise permitted under this Rule.
 - (B) College Staff Members. Full-time college staff members employed for a 9, 10, 11, or 12 month term may enroll in one curriculum or extension course per semester, as well as the summer term, in the system without payment of tuition or registration fee.
 - (C) Basic Law Enforcement Training Program (BLET) for law enforcement officers. All law enforcement officers employed by a municipal, county, state, or federal law enforcement agency when taking courses in a state-mandated BLET training program, are exempt from tuition payment. Also, trainees shall be exempt from BLET class tuition if a letter of sponsorship from a state, county, or municipal law enforcement agency is on file at the college.
 - (D) Individuals meeting the criteria set forth in G.S. 115B-2 shall not be charged tuition.
 - (E) High school students taking courses pursuant to Paragraph (c) (concurrent enrollment) and Paragraph (e) (cooperative high school programs) of 23 NCAC 02C .0305 of this Chapter shall not be charged tuition.
 - (F) Patients in state alcoholic rehabilitation centers shall not be charged tuition.
 - (G) Juveniles committed to the Department of Juvenile Justice and Delinquency Prevention shall not be charged tuition.
 - (H) Prison inmates shall not be charged tuition.
- (b) Pre-Enrollment Deposit. The local board of trustees may establish a pre-enrollment deposit up to a maximum of fifteen dollars (\$15.00). The pre-enrollment deposit, if established, shall be required only when a prospective student has made application for admission and has been accepted. This advance payment is not refundable unless the class(es) fails to materialize or a refund is required by the death of the student. This advance payment shall be deposited to the State Treasurer and credited against the full tuition due from the student during the regular registration period. For the purposes of this Rule, any tuition refund granted shall not include the pre-enrollment deposit of the student unless a refund is granted when a class fails to materialize or because of the student's death.
- (c) Late Enrollment Fee. A late enrollment fee up to five dollars (\$5.00) may be charged curriculum students registering after the specific closing date of registration, with such fees becoming state funds.
- (d) Tuition Refunds. Each college shall allow a 100 percent tuition refund up to and including the drop/add date for each

college. Each college shall allow a 75 percent tuition refund from the date after the drop/add date up to and including the census date of the course. Where a student, having paid the required tuition for a semester, dies during that semester (prior to or on the last day of examinations of the college the student was attending), all tuition and fees for that semester shall be refunded to the estate of the deceased, upon request by the deceased's estate within 90 days of the student's death.

(e) Military Tuition Refund. Upon request of the student, each college shall:

- (1) Grant a full refund of tuition and fees to military reserve and National Guard personnel called to active duty or active duty personnel who have received temporary or permanent reassignments as a result of military operations then taking place outside the state of North Carolina that make it impossible for them to complete their course requirements; and
- (2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

(f) Additional Rules for Tuition Refunds.

- (1) As used in Paragraph (d) of this Rule, the term "census date" is defined as the official 10 percent point of any semester, term, or course as noted in the college calendar.
- (2) To comply with applicable federal regulations regarding refunds, federal regulations shall supersede the state refund regulations provided in this Rule to the extent the federal regulations and state regulations are contradictory.

History Note: Authority G.S. 115D-5; 115D-39; 116-143.1; P.L. 93-508; S.L. 1995, c. 625; Eff. February 1, 1976;

Amended Eff.; September 1, 1993; December 1, 1984

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

Amended Eff. June 1, 1994;

Temporary Amendment Eff. June 1, 1997;

Amended Eff. August 1, 2010; April 1, 2005; August 1, 2002; August 1, 1998.

23 NCAC 02D .0301 OPERATING BUDGET REQUESTS: DISTRIBUTION OF FUNDS

(a) Projections of full-time equivalent (FTE) students shall be based on the following:

- (1) Curriculum FTE projections shall be based on the academic year (fall and spring semesters).
- (2) Continuing education FTE projections shall be based on the latest spring, summer, and fall FTE figures. Annual continuing education FTE is determined by totaling the student

hours in membership for the three reporting periods and dividing by 688. Note definition of annual continuing education FTE in 23 NCAC 01A .0101(8).

(3) Projections shall be made, program by program, as stated in Subparagraphs (a)(1) and (2) of this Rule. If the actual FTE for the semesters needed are not available, the latest actual semester FTE shall be multiplied by the latest five-year retention ratio to determine the appropriate estimates. Retention ratios are FTE comparisons between Fall Semester and the Spring Semester which are used to predict FTE totals when actual figures are not available.

(4) The State Board may adjust the projections based on additional factors brought to its attention.

(5) The State Board shall adopt an official projection of FTE.

(b) Appropriation Requests:

(1) Continuation Budget Requests. The continuation budget request shall be based on the number of FTE and amount per FTE currently appropriated and increases in the continuation budget as directed by the Office of State Budget and Management. Also included in the continuation budget requests shall be continuing categorical programs. Categorical programs are educational programs funded for specific purposes such as the Customized Training Program for job growth, productivity enhancement, or technology investment as opposed to general formula programs such as occupational extension.

(2) Expansion Budget Requests. The expansion budget request shall consist of at least the following items:

- (A) an adjustment in the number of FTEs in existing programs based on the difference between the official FTE projections of the State Board and the existing level of FTEs requested in the continuation budget;
- (B) an adjustment in expenditure per FTE;
- (C) additional funding for new and special programs of instruction.

(c) State Board Reserve. A reserve shall be requested from the General Assembly and shall be retained by the State Board for the purpose of making later allocations for feasibility studies, pilot projects, innovative ideas, and start-up of new programs or as otherwise directed by the General Assembly.

(d) Formula distribution of funds for the current operation budget. Funds appropriated to the State Board for current operation shall be allocated to the system colleges as directed by the General Assembly.

(e) JTPA Administrative Allotment. Student class hours for class size projects funded by the Job Training Partnership Act (JTPA) shall not be included in the full-time equivalent (FTE) formula for earning budget/FTE. Administrative funds for operating these class size projects shall be allocated on the same basis as all other administrative formula funds.

History Note: Authority G.S. 115D-3; 115D-5; 115D-54; S.L. 1995, c. 625; Eff. February 1, 1976; Amended Eff. September 30, 1977; Emergency Amendment Eff. July 1, 1978 for a period of 120 days to expire on October 29, 1978; Emergency Amendment Made Permanent Eff. July 24, 1978; Amended Eff. June 1, 1987; July 1, 1983; Temporary Amendment Eff. August 25, 1988 for a period of 180 days to expire on February 20, 1989; Amended Eff. September 1, 1993; April 1, 1989; Temporary Amendment Eff. June 1, 1997; Amended Eff. May 1, 2009; July 1, 1998.

23 NCAC 02D .0326 BUDGET FTE FUNDING

(a) All student membership hours generated by the college for a given class shall be counted for budget FTE purposes provided 100 percent of the instructional cost is paid from college funds (funds budgeted through the college's budget including State Current, County Current, or College Funds). These provisions apply to all instructional contracts which generate budget FTE including Basic Skills classes. For purpose of this Rule, instructional cost includes the salary of the instructor(s) as well as fringe benefits, supplies, materials, and travel paid from college funds. College-sponsored instruction shall not supplant existing training which may take place without the college's involvement. Following are Rule applications:

- (1) A company or entity may reimburse the college for a given class up to 50 percent of the instructional cost. The student hours in membership generated in the class may be reported for budget FTE. If the college is reimbursed for more than 50 percent of the instructional cost for a given class, student hours in membership reported for the class shall be prorated in the same proportion as the college funding. If the college is reimbursed for 100 percent of the instructional cost, the class would be gratis [see Paragraph (b) of this Rule] and no budget FTE would be generated.
- (2) In cases where a company or entity donates funds to a college with no expectation for instruction in return, these funds shall be treated as college funds and may be used to generate budget FTE.
- (3) The community college shall not contract with a company or entity to provide training to its current employees except as provided by provisions set forth in 23 NCAC 02E .0402.

Note: Contracted training does not have to be defined as work station occupational skills training in order for 23 NCAC 02E .0402(c) to apply for reimbursement purposes.

(b) Any class for which the instructor's services are provided at no cost or for which the instructional cost is paid totally and directly by an external agency is a "gratis" class. In this situation, the class is reported as self-supporting, and does not generate budget/FTE. If a portion of the class is gratis, student hours shall be prorated accordingly.

(c) Categorical state allotments to colleges, except literacy and Human Resources Development, such as Small Business, Customized Training Programs, Community Service, and Block Grants do not earn budget/FTE and are not subject to the provisions of this Rule.

History Note: Authority G.S. 115D-5; 115D-31; 115D-58.5; S.L. 2001, c. 424, s. 30.3(b),(e); Eff. September 1, 1988; Temporary Amendment Eff. October 15, 1992 for a period of 180 days to expire on April 15, 1993; Temporary Amendment Eff. November 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. June 1, 1994; September 1, 1993; Temporary Amendment Eff. October 4, 2001; Amended Eff. May 1, 2009; April 1, 2003.

23 NCAC 02D .0327 REPORTING STUDENT MEMBERSHIP HOURS TO THE DEPARTMENT

(a) Curriculum and extension college class reports summarizing student membership hours shall be submitted to the Department during each student membership hour reporting period defined in this Paragraph.

- (1) The three student membership hour reporting periods are as follows:
 - (A) Period 1 - (Spring Period): January 1 - May 15;
 - (B) Period 2 - (Summer Period): May 16 - August 14;
 - (C) Period 3 - (Fall Period): August 15 - December 31.
- (2) College class reports for all regular budget curriculum and extension classes shall be submitted 21 calendar days after the conclusion of each student reporting period defined in Subparagraph (a)(1) of this Rule. Note the following schedule concerning application of the designated periods:
 - (A) all reports received by June 5 shall be designated Period 1;
 - (B) all reports received by September 4 shall be designated Period 2; and
 - (C) all reports received by January 21 shall be designated Period 3.

(b) For learning laboratories, skills laboratories, multi-entry, multi-exit and other non-regularly scheduled classes where actual student time in class is determined, student contact hours shall be calculated on the last day of each respective student membership hour reporting period for a given class and submitted to the Department according to Subparagraphs (a)(1) and (a)(2) of this Rule. Also, note Paragraphs (b) and (c) of

Rule .0323 and Paragraphs (a) and (b) of Rule .0324 regarding calculation of student membership hours.

(c) College class reports for non-regular budget extension classes such as customized training for job growth, productivity enhancement, or technology investment, HRD, JTPA, self-supporting, and recreational shall also be submitted to the System Office in accordance with Subparagraphs (a)(1) and (a)(2) of this Rule.

History Note: Authority G.S. 115D-5; 115D-31; 115D-58.5; S.L. 1995, c. 625; Eff. September 1, 1988; Temporary Amendment Eff. June 1, 1997; Amended Eff. May 1, 2009; July 1, 1998.

23 NCAC 02E .0204 COURSES AND STANDARDS FOR CURRICULUM PROGRAMS

The Combined Course Library and curriculum standards for associate degree, diploma, and certificate programs shall be as follows:

- (1) Combined Course Library Curriculum Courses.
 - (a) The Combined Course Library shall contain the following elements for all curriculum program credit courses approved for the North Carolina Community College System.
 - (i) Course prefix;
 - (ii) Course number;
 - (iii) Course title;
 - (iv) Classroom hours and laboratory, clinical, and work experience contact hours, if applicable;
 - (v) Credit hours;
 - (vi) Prerequisites and corequisites, if applicable; and
 - (vii) Course description consisting of three sentences.
 - (b) The numbering system for curriculum courses within the Combined Course Library is as follows:
 - (i) The numbers 050-099 shall be assigned to developmental courses.
 - (ii) The numbers 100-109 and 200-209 shall be assigned to certificate and diploma level curriculum courses. These courses shall not be included in associate degree programs.
 - (iii) The numbers 110-189 and 210-289 shall be assigned to associate degree level courses. These courses may also be included in

certificate and diploma programs.

- (iv) The numbers 190-199 and 290-299 shall be assigned to seminar or selected topic courses which may be offered for a single term and which courses offer content not found in existing courses. In order to offer the course content after the initial term, a new course must be approved for inclusion in the Combined Course Library.

- (c) A college shall use the course information (prefix; number; title; classroom, laboratory, clinical, and work experience contact hours; credit hours; prerequisites and corequisites; and course description) as listed in the Combined Course Library.

- (i) A college may add a fourth sentence to the course description to clarify instructional content or instructional methodology.

- (ii) A college may divide courses into incremental units for greater flexibility in providing instruction to part-time students or to provide shorter units of study for abbreviated calendars. Each of the following criteria apply to courses divided into incremental units:

(A) A course may be divided into two or three units, which are designated with an additional suffix following the course prefix and number;

(B) The units shall equal the entire course of instruction, without omitting any competencies;

(C) The combined contact and credit hours for the units shall equal the contact and credit hours for the course;

- (D) If the course is a prerequisite to another course, the student shall complete all component parts before enrolling in the next course;
 - (E) If the course is a co-requisite to another course it must be taken before or in conjunction with that course; and
 - (F) The components of a split course shall not be used to supplant training for occupational extension.
 - (d) The Community College System Office shall revise and maintain courses in the Combined Course Library.
 - (e) When a student receives credit for a Combined Course Library course, this credit shall be transferable to any college in the North Carolina Community College System.
- (2) Revision of Curriculum Standards. A revision of curriculum standard requires that two thirds of colleges approved to offer that curriculum program concur in writing with the revision. Upon their concurrence changes in curriculum standards become effective after approval by the State Board of Community Colleges.
- (3) Criteria for Programs. Each curriculum program shall be based on the following criteria established by the State Board of Community Colleges for the awarding of degrees, diplomas, and certificates.
 - (a) Associate in Applied Science. The associate in applied science program of study must consist of a minimum of 64 and a maximum of 76 semester hours of credit from curriculum courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers. The requirements for the Associate in Applied Science Degree are as follows:
 - (i) The associate in applied science curriculum program shall include a minimum of 15 semester hours of credit from general education curriculum courses selected from the Combined Course Library, including six hours in communications, three hours in humanities/fine arts, three hours in social/behavioral sciences, and three hours in either natural sciences or mathematics.
 - (ii) The associate in applied science curriculum program shall include a minimum of 49 semester hours of credit from major curriculum courses selected from the curriculum courses in the Combined Course Library assigned numbers from 110-199 and 210-299. Major curriculum courses are those which offer specific job knowledge or skills. Criteria for the major hours category are as follows:
 - (A) Major Core Hours. The major hours category shall be comprised of identified curriculum core courses or subject areas or both which are required for each program. Subject areas or curriculum core courses shall be based on curriculum competencies and shall teach essential skills and knowledge necessary for employment. The number of credit hours required for the core shall not be less than 12 semester hours of credit;
 - (B) Major Concentration Hours. The major hours category may

also include hours required for a concentration of study. A concentration of study is a group of curriculum courses required beyond the core for a specific related employment field. A

concentration shall include a minimum of 12 semester hours, and the majority of the curriculum course credit hours shall be unique to the concentration;

(C) Other Major Hours. Other major hours shall be selected from prefixes identified on the curriculum standard. A maximum of nine semester hours of credit may be selected from any prefix listed, with the exception of prefixes listed in the core or concentration, or unique prefixes as noted on the standard; and

(D) Work Experience Hours. The major hours category may include up to a maximum of eight semester hours credit for work experience, including cooperative education, practicums, and internships. Under a standard specifically designed for select associate degree programs, work experience shall be included in a

curriculum up to a maximum of 16 semester hours of credit. The select associate degree programs shall be based on a program of studies registered under the North Carolina Department of Labor Apprenticeship programs. Only eight semester hours of credit of work experience shall earn budget FTE.

(iii) Other Required Hours. A college may require graduation or local employer requirements in order to complete an associate in applied science program. These requirements may be met through a maximum of seven semester hours of credit from curriculum courses. These curriculum courses shall be selected from the Combined Course Library and must be approved by the System Office based on the Curriculum Procedures Reference Manual prior to implementation of the program. Restricted, unique or free elective courses may not be included as other required courses.

(iv) Selected topics or seminar curriculum courses may be included in an associate in applied science degree program up to a maximum of three semester hours of credit. Selected topics or seminar courses shall not substitute for required general education or major core courses. Such curriculum courses shall be listed on a program of study as other major hours. Selected topics and seminar curriculum courses shall not

- be used more than once in a program.
- (b) Associate in Arts Degree. The associate in arts program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from approved college transfer courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and basic use of computers. Certificates are not allowed under this degree program. The requirements for the Associate in Arts Degree are as follows:
- (i) The associate in arts curriculum program shall include a minimum of 44 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The general education core shall include:
- (A) Six semester hours of English composition;
- (B) 12 semester hours of humanities/fine arts;
- (C) 12 semester hours of social/behavioral sciences;
- (D) Six semester hours of mathematics; and
- (E) Eight semester hours of natural sciences.
- (ii) The associate in arts program shall include a minimum of 20 and a maximum of 21 additional semester hours of credit selected from curriculum courses in the Combined Course Library which have been approved for transfer to the University of North Carolina constituent institutions. A non-college transfer curriculum course of one semester hour of credit may be included in a 65 semester hour credit associate in arts program. This course may receive transfer evaluation by the receiving institution.
- (iii) A college may award a diploma under an approved associate in arts degree program for a series of curriculum courses taken from the approved associate in arts degree program of study. This diploma shall include a minimum of 44 and a maximum of 47 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The diploma shall include a minimum of:
- (A) Six semester hours of English composition;
- (B) 12 semester hours of humanities/fine arts;
- (C) 12 semester hours of social/behavioral sciences;
- (D) Six semester hours of mathematics; and
- (E) Eight semester hours of natural sciences.
- A non-college transfer course of one semester hour of credit may be included in a 47 semester hour credit diploma program. This curriculum course may receive transfer evaluation by the receiving institution.
- (c) Associate in Science Degree. The associate in science program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from approved college transfer courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and

basic use of computers. Certificates are not allowed under this degree program. The requirements for Associate in Science Degree are as follows:

- (i) The associate in science curriculum program shall include a minimum of 44 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The general education core shall include:
 - (A) Six semester hours of English composition;
 - (B) Nine semester hours of humanities/fine arts;
 - (C) Nine semester hours of social/behavioral sciences; and
 - (D) 20 semester hours of mathematics and natural sciences that shall include a minimum of six semester hours in mathematics and a minimum of eight semester hours in natural sciences.
- (ii) The associate in science curriculum program may include a minimum of 20 and a maximum of 21 additional semester hours of credit selected from curriculum courses in the Combined Course Library which have been approved for transfer to the University of North Carolina constituent institutions. A non-college transfer curriculum course of one semester hour of credit may be included in a 65 semester hour credit associate in science program. This curriculum course shall receive transfer evaluation by the receiving institution.

- (iii) A college may award a diploma under an approved associate in science degree program for a series of curriculum courses taken from the approved associate in science degree program of study. This diploma shall include a minimum of 44 and a maximum of 47 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The diploma shall include a minimum of:
 - (A) Six semester hours of English composition;
 - (B) Nine semester hours of humanities/fine arts;
 - (C) Nine semester hours of social/behavioral sciences; and
 - (D) 20 semester hours of natural sciences and mathematics that shall include a minimum of six hours in mathematics and a minimum of eight hours in natural sciences.

A non-college transfer curriculum course of one semester hour of credit may be included in a 47 semester hour credit program. This curriculum course may receive transfer evaluation by the receiving institution.

- (d) Associate in Fine Arts Degree. The associate in fine arts program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from approved college transfer curriculum courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for achievement of competence in reading, writing, oral communication, fundamental

mathematical skills, and basic use of computers. Diplomas and certificates are not allowed under this degree program. The requirements for the Associate in Fine Arts Degree are as follows:

- (i) The associate in fine arts curriculum program shall include a minimum of 28 semester hours of general education curriculum core courses selected from the Combined Course Library and approved for transfer to the University of North Carolina constituent institutions. The general education core shall include:
 - (A) Six semester hours of English composition;
 - (B) Six semester hours of humanities/fine arts;
 - (C) Nine semester hours of social/behavioral sciences;
 - (D) Three semester hours of mathematics; and
 - (E) Four semester hours from the natural sciences.
- (ii) The associate in fine arts curriculum program shall include a minimum of 36 and a maximum of 37 additional semester hours of credit from curriculum courses in the Combined Course Library which have been approved for transfer to the University of North Carolina constituent institutions. A non-college transfer course of one semester hour of credit may be included in a 65 semester hour credit associate in fine arts program. This curriculum course may receive transfer evaluation by the receiving institution.
- (e) Associate in General Education. The associate in general education program of study must consist of a minimum of 64 and a maximum of 65 semester hours of credit from

curriculum courses at the 110-199 and 210-299 levels. Within the degree program, the college shall include opportunities for the achievement of competence in reading, writing, oral communication, fundamental mathematical skills, and the basic use of computers. Diplomas and certificates are not allowed under this degree program. The requirements for the Associate in General Education Degree are as follows:

- (i) The associate in general education curriculum program shall include a minimum of 15 semester hours of credit from general education curriculum courses selected from the Combined Course Library, including six hours in communications, three hours in humanities/fine arts, three hours in social/behavioral sciences, and three hours in natural sciences or mathematics.
- (ii) The remaining hours in the associate in general education curriculum program shall consist of additional general education and professional curriculum courses selected from the Combined Course Library. A maximum of seven semester hours of credit in health, physical education, and college orientation or study skills courses may be included.
- (iii) Selected topics or seminar curriculum courses may be included in an associate in general education program up to a maximum of three semester hours of credit. Selected topics and seminar courses shall not substitute for required general education or major core courses. Such curriculum courses shall be listed on a program of study as "Other Major Hours." Selected topics and seminar curriculum courses shall not be used more than once in a

- program. (See Sub-Item (3)(a)(iv)) of this Rule.
- (f) Diploma. A Diploma program of study must consist of a minimum of 36 and a maximum of 48 semester hours of credit from courses at the 100-299 level. The requirements for the diploma curricula are as follows:
- (i) Diploma curricula shall include a minimum of six semester hours of general education curriculum courses selected from the Combined Course Library. A minimum of three semester hours of credit shall be in communications, and a minimum of three semester hours of credit shall be selected from curriculum courses in humanities/fine arts, social/behavioral sciences, or natural sciences and mathematics.
 - (ii) Diploma curricula shall include a minimum of 30 semester hours of major courses selected from curriculum courses in the Combined Course Library.
 - (iii) A diploma curriculum program shall include designated core curriculum courses or core subject areas within the major hours category.
 - (iv) Curriculum courses for other major hours in diploma curriculum program shall be selected from prefixes identified on the curriculum standard. A maximum of nine semester hours of credit may be selected from any prefix listed, with the exception of prefixes listed in the core or concentration or unique prefixes as noted on the curriculum standard.
 - (v) Work experience, including cooperative education, practicums, and internships, may be included in a diploma curriculum program up to a maximum of four semester hours of credit.
 - (vi) Other Required Hours. A college may require graduation or local employer requirements in order to complete a diploma program. These requirements may be met through a maximum of four semester hours of credit from curriculum courses. These curriculum courses shall be selected from the Combined Course Library and must be approved by the System Office based on the Curriculum Procedures Manual prior to implementation of the program. Restricted, unique or free elective courses may not be included as other required courses.
- (vii) A college may award a diploma under an approved associate in applied science degree curriculum program for a series of curriculum courses taken from the approved associate degree curriculum program of study unless prohibited by the standard.
- (A) A diploma curriculum program offered under an approved associate degree program shall meet the standard general education and major curriculum course requirements for the diploma credential.
 - (B) A college may substitute general education curriculum courses at the 100-299 level for the associate-degree level general education curriculum courses in a diploma program offered under an approved degree program.
 - (C) A diploma curriculum program offered under an approved associate

- degree curriculum program shall require a minimum of 12 semester hours of credit from curriculum courses extracted from the required curriculum core courses or core subject areas of the respective associate in applied science degree curriculum program.
- (D) A diploma program offered under an approved associate degree concentration program shall require the utilization of all curriculum core courses and a minimum of 12 semester hours of credit from concentration courses.
- (viii) Selected topics or seminar curriculum courses may be included in a diploma program up to a maximum of three semester hours of credit. Selected topics and seminar curriculum courses shall not substitute for required general education or major curriculum core courses. Courses must be on a program of study as other major hours.
- (g) Certificate Programs. A certificate program of study must consist of a minimum of 12 and a maximum of 18 semester hours of credit from curriculum courses at the 100-299 level. The requirements for the Certificate Programs are as follows:
- (i) General education is optional in certificate curricula.
- (ii) Certificate curricula shall include a minimum of 12 semester hours of major curriculum courses selected from curriculum courses in the Combined Course Library.
- (A) A certificate program which is a stand-alone curriculum program title or which is the highest credential level awarded under an approved associate in applied science degree or diploma program shall include a minimum of 12 semester hours of credit from core courses or the required curriculum core subject areas within the major hours category.
- (B) Curriculum courses for other major hours in a stand-alone certificate curriculum program shall be selected from prefixes identified on the curriculum standard.
- (C) Work experience, including cooperative education, practicums, and internships, may be included in a certificate program up to a maximum of two semester hours of credit.
- (iii) Other Required Hours. A college may require graduation or local employer requirements in order to complete a certificate program. These requirements may be met through a maximum of one semester hour of credit from curriculum courses. This curriculum course shall be selected from the Combined Course Library and must be approved by the System Office board on the Curriculum Procedures Manual prior to implementation of the

- program. Restricted unique or free elective courses may not be included as other required courses.
- (iv) An institution may award a certificate under an approved degree or diploma curriculum program for a series of courses totaling a minimum of 12 semester hours of credit and a maximum of 18 semester hours of credit taken from the approved associate degree or diploma curriculum program of study.
- (v) Selected topics or seminar courses may be included in a certificate program up to a maximum of three semester hours of credit.

- (4) **Curriculum Standards Compliance.** Each college shall select curriculum courses from the Combined Course Library in order to comply with the standards for each curriculum program title the college is approved to offer. The selected courses shall comprise the college's program of study for that curriculum program. The initial and revised program shall be filed with and approved by the System Office prior to implementation.

History Note: Authority G.S. 115D-5; S.L. 1995, c. 625; Temporary Adoption Eff. June 1, 1997; Eff. July 1, 1998; Amended Eff. June 1, 2009; July 1, 2007; October 1, 2006; December 1, 2004; August 15, 2004.

23 NCAC 02E .0205 PROGRAM REVIEW

(a) Each college shall monitor the quality and viability of all its programs and services. Each curriculum program, each program area within continuing education, including Basic Skills, occupational extension, and community service, and each service area shall be reviewed at least every five years to determine program strengths and weaknesses and to identify areas for program improvement. The program review process shall be consistent with the requirements of the regional accrediting agency.

(b) The System Office shall collect data on the outcomes of the following performance measures:

- (1) Progress of basic skills students;
- (2) Passing rate for licensure and certification examinations;
- (3) Goal completion of program completers and noncompleters;
- (4) Employment status of graduates;
- (5) Performance of students who transfer to the university system;

- (6) Passing rates in developmental courses;
- (7) Success rates of developmental students in subsequent college-level courses;
- (8) The level of satisfaction of students who complete programs and those who do not complete programs;
- (9) Curriculum student retention and graduation;
- (10) Employer satisfaction with graduates;
- (11) Client satisfaction with Customized Training Programs; and
- (12) Program enrollment.

Each college shall publish its data on all performance measures annually in its electronic catalog or on the internet and in its printed catalog each time the catalog is reprinted.

(c) The System Office shall report annually to the State Board of Community Colleges on each college's outcomes on these performance measures.

(d) The System Office shall monitor the colleges' performance on all measures to ensure that all measures are being used for the purpose of program improvement.

Note: Substance of former 23 NCAC 02C .0604 was incorporated into this Rule.

History Note: Authority G.S. 115D-5; 115D-31.3; 1999 S.L., c. 237, s. 9.2; 1993 S.L., c. 321, s. 109; S.L. 1995, c. 625; Eff. February 1, 1990; Amended Eff. August 1, 1995; September 1, 1993; Temporary Amendment Eff. June 1, 1997; Amended Eff. July 1, 1998; Temporary Amendment Eff. December 6, 1999; Temporary Amendment Expired September 30, 2000; Amended Eff. May 1, 2009; August 1, 2001.

TITLE 25 – OFFICE OF STATE PERSONNEL

25 NCAC 01I .2002 TYPES OF APPOINTMENTS AND DURATION

(a) Probationary Appointment: The probationary period is an essential extension of the selection process and provides the time for effective adjustment of the new employee or elimination of those whose performance will not meet acceptable standards. Probationary appointments are administered as follows:

- (1) The agency shall require a probationary period for:
 - (A) Individuals receiving original appointments to permanent positions;
 - (B) Employees accepting a position in a different agency in the same county or in another county that is subject to G.S. Chapter 126. This applies to those who have already achieved career status; and
 - (C) Individuals being rehired following a 31 day break in service may be required to serve a probationary period as set out in Subparagraph (2).

- (2) Individuals being rehired may be required to serve a probationary period if:
 - (A) the essential duties and responsibilities of the position into which the employee is being rehired are significantly different from those of the position held at the time the employee left; or
 - (B) in the judgment of the employing agency, a new probationary period is justified based on previous employment history and the specific reasons for the new probationary period are communicated to the employee in the job offer.
 - (3) Employees with career status who serve a new probationary period as set out in Part (a)(1)(B) of this Rule shall be returned to career status upon successful completion of the new probationary period;
 - (4) The length of the probationary period shall not be less than three nor more than nine months of either full-time or part-time employment. The length is dependant upon the complexity of the position and the rapidity of progress made by the particular individual in the position. If the desired level of performance is not achieved within nine months after appointment, the employee shall be separated from service unless in trainee status; an employee with a trainee appointment is expected to make a satisfactory progress, but is not permanent until he has completed the training period;
 - (5) At any time during a probationary period an employee may be separated from service for causes related to performance of duties or for personal conduct detrimental to the agency without right of appeal or hearing. The employee must be given notice of dismissal, including reasons; and
 - (6) Employment in a temporary appointment may be credited toward the probationary period at the discretion of the appointing authority. Employment in an intermittent or emergency appointment shall not be credited toward the probationary period.
- (b) Trainee Appointment: A trainee appointment may be made to a position in any class for which the specification includes special provisions for a trainee progression leading to a regular appointment. Trainee appointments are administered as follows:
- (1) An individual who possesses the acceptable training and experience for the class may not be appointed as a trainee;
 - (2) The specification for each class in which a trainee appointment is authorized will define the minimum qualifications for the trainee appointment and the minimum qualifications for a regular probationary appointment. It is

expected that the individual will progress through supervised experience to a minimum level of satisfactory performance in the position during a period of time indicated by the difference between the amounts of experience required for the two types of appointments. This limit does not include time spent on educational leave or additional time required to participate in a work-study program designed to meet educational requirements for the class. An employee may not remain on a trainee appointment beyond the time he meets the educational and experience requirements for the class. After the employee has successfully completed all educational and experience requirements he shall be given probationary or permanent status in the position or shall be separated. If the period of the trainee appointment equals or exceeds nine months, the employee must be given permanent status or be separated at the completion of the trainee period;

- (3) If an employee with permanent status in another class accepts a trainee appointment, the permanent status will be waived for the duration of the trainee appointment. The employee can regain permanent status either through successful completion of the trainee appointment, by reinstatement to the class in which he previously held status, or by transfer to a position in a class for which he/she would have been eligible based on previous permanent status; and
 - (4) A former employee who does not meet the minimum requirements of the class to which he is being appointed shall be given a trainee appointment. All requirements for the trainee appointment must be satisfied prior to attaining permanent status.
- (c) Permanent Appointment. A permanent appointment is an appointment to a permanently established position when the incumbent is expected to be retained on a permanent basis. Permanent appointments follow the satisfactory completion of a probationary or trainee appointment, or may be made upon reinstatement of a qualified employee. Permanent appointments do not confer career status. Career status is achieved only when the conditions set out in G.S. 126-1.1 are met. Continuous service creditable toward career status shall be transferred when an employee accepts a position in an agency subject to the State Personnel Act in the same county or in another county.
- (d) Time-Limited Appointment. A time-limited appointment may be made to:
- (1) a permanent position that is vacant due to the incumbent's leave of absence and when the replacement employee's services will be needed for a period of one year or less; or
 - (2) to a permanent position that has an established duration of no more than two years. Such appointment shall not be made for less than six

months. If at the end of the two year time-limited appointment, the work is expected to continue and the position becomes permanent, the employee shall be given a permanent appointment. A time-limited appointment is distinguished from a temporary appointment by the greater length of time, and from the regular permanent appointment by its limited duration.

(e) Temporary Appointment. A temporary appointment may be made to a permanent or temporary position. The appointment shall be limited to a maximum duration of 12 months.

(f) Pre-Vocational Student Appointment. This appointment is to be used to enable students to gain practical knowledge of their particular occupational area of interest. A suitable plan for training under close supervision must be developed for the individual. In the case of a co-operative, work study, internship, or similar appointment, the time schedule for work must be determined. The basis of eligibility and selection for such an appointment shall be outlined in a formal plan developed by the participating agencies for each type and level of student involvement. Upon successful completion of their training, individuals may be considered for any vacant position for which qualified.

(g) Emergency Appointment: An emergency appointment may be made when an emergency situation exists requiring the services of an employee before it is possible to identify a qualified applicant through the regular selection process. Emergency appointments are administered as follows:

- (1) When it is determined that an emergency appointment is necessary, all other requirements for appointments will be waived;
- (2) An emergency appointment may be made for a period of up to 60 work days (consecutive or non-consecutive), or a total of 480 hours; and in pay status.
- (3) Any one individual may not receive successive emergency appointments with the same department or agency. At least three calendar months must elapse after the conclusion of the emergency appointment before that department or agency can give the same individual another emergency appointment.

(h) Appointment of Incumbents in Newly-Covered Programs:

- (1) Upon extension of State Personnel Act requirements to a program, position, or group of positions, the incumbent(s) may be appointed with permanent status in his classifications under any of the following circumstances:
 - (A) The employee is qualified for reinstatement on the basis of previous permanent status in a comparable position; or
 - (B) The employee has at least three months of satisfactory service in the program or agency, as certified by the appointing authority, and the appointing authority recommends that

the employee be granted permanent status;

- (2) If the agency fails to grant permanent status within nine months from the initial coverage then the incumbent must be terminated. Employees given trainee appointments will be given permanent status consistent with other trainee appointments; and
- (3) Incumbents who have less than three months of service with the agency shall be continued with no status until they are granted permanent status or terminated as required in this Rule. Employees with more than three months but less than nine months services in the agency may be continued without status until nine months have elapsed. At the end of nine months, however, the incumbent must be granted permanent status or terminated.

(i) Work-Against Appointment. When qualified applicants are unavailable and there is no trainee provision for the classification of the vacancy, the appointing authority may appoint an employee below the level of the regular classification in a work-against situation. A work-against appointment is for the purpose of allowing the employee to gain the qualifications needed for the full class through on-the-job experience. The appointee must meet the minimum training and experience standard of the class to which initially appointed. A work-against appointment may not be made when applicants are available who meet the training and experience requirements for the full class, and for the position in question.

*History Note: Authority G.S. 126-4.
Eff. August 3, 1992;
Amended Eff. May 1, 2009.*

TITLE 26 – OFFICE OF ADMINISTRATIVE HEARINGS

26 NCAC 02C .0308 ELECTRONIC FILING

- (a) An agency may file rules and other documents for publication in the Register by electronic mail. The electronic mail shall include an attached document(s) that is compatible with or convertible to the most recent version of Microsoft Word.
- (b) Electronic mail with attachment(s) shall be sent by electronic transmission to: oah.rules@oah.nc.gov. The agency shall simultaneously send a facsimile (fax) copy of the attachment(s).
- (c) Electronic submission shall be deemed submitted for publication pursuant to 26 NCAC 02C .0302 on the business day when both the electronic mail with attachment(s) and the faxed copy are received.

*History Note: Authority G.S. 150B-21.17;
Eff. January 1, 2006;
Amended Eff. May 1, 2009.*

26 NCAC 03 .0101 GENERAL

(a) The Rules of Civil Procedure as contained in G.S. 1A-1, the General Rules of Practice for the Superior and District Courts as authorized by G.S. 7A-34 and found in the Rules Volume of the North Carolina General Statutes shall apply in contested cases in the Office of Administrative Hearings (OAH) unless another specific statute or rule of the Office of Administrative Hearings provides otherwise.

(b) The Office of Administrative Hearings shall supply forms for use in contested cases. These forms shall conform to the format of the Administrative Office of the Courts' Judicial Department Forms Manual.

(c) The Office of Administrative Hearings shall permit the filing of contested case documents and other pleadings by facsimile (fax) or electronic mail by an attached file either in PDF format or a document that is compatible with or convertible to the most recent version of Microsoft Word. Electronic mail with attachment shall be sent by electronic transmission to: oah.clerks@oah.nc.gov. The faxed or electronic documents shall be deemed a "filing" within the meaning of 26 NCAC 03 .0102(a)(2) provided the original signed document and one copy is received by OAH within seven business days following the faxed or electronic transmission. Other electronic transmissions, for example, electronic mail without attached file as specified in this Paragraph, shall not constitute a valid filing with the Office of Administrative Hearings.

(d) Every pleading and other documents filed with OAH shall be signed by the attorney who prepared the document, if it was prepared by an attorney, and shall contain his name, address, telephone number, and North Carolina State Bar number. An original and one copy of each document shall be filed.

(e) Except as otherwise provided by statutes or by rules adopted under G.S. 150B-38(h), the rules contained in this Chapter shall govern the conduct of contested case hearings under G.S. 150B-40 when an Administrative Law Judge has been assigned to preside in the contested case.

History Note: Authority G.S. 7A-750; 7A-751(a); 150B-40(c);
Eff. August 1, 1986;
Amended Eff. May 1, 2009; January 1, 2006; April 1, 2004;
April 1, 2001; August 1, 2000; February 1, 1994; July 1, 1992;
May 1, 1989; January 1, 1989.

26 NCAC 03 .0120 RIGHTS AND RESPONSIBILITIES OF PARTIES

(a) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the administrative law judge or agreed upon at a prehearing conference.

(b) The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties.

(c) All parties have the continuing responsibility to notify the Office of Administrative Hearings of their current address and telephone number.

(d) A party may represent himself or be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.

(e) With prior notice to the administrative law judge, any person may offer testimony or other evidence relevant to the case. Any nonparty offering testimony or other evidence may be questioned by parties to the case and by the administrative law judge.

(f) Prior to issuing a decision, the administrative law judge may order any party to submit proposed findings of fact and written arguments.

(g) The Administrative Law Judge may allow remote participation via audio or video conference by participant(s) subject to available services at the hearing location. Requests for remote participation shall be made at least seven days in advance and are subject to equipment, staff, and scheduling availability.

History Note: Authority G.S. 7A-751(a); 150B-25; 150B-33; 150B-34;
Eff. August 1, 1986;
Amended Eff. October 1, 1991; April 1, 1990; November 1, 1987;
Recodified from Rule .0119 Eff. August 1, 2000;
Amended Eff. May 1, 2009; April 1, 2001.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday, June 18, 2009 9:00 a.m. at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3100. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jim R. Funderburke - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Keith O. Gregory
Jerry R. Crisp
Jeffrey P. Gray

Appointed by House

Jennie J. Hayman - Chairman
John B. Lewis
Clarence E. Horton, Jr.
Daniel F. McLawhorn
Curtis Venable

COMMISSION COUNSEL

Joe Deluca (919)431-3081
Bobby Bryan (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

June 18, 2009 July 16, 2009
August 20, 2009 September 17, 2009

AGENDA

RULES REVIEW COMMISSION

Thursday, June 18, 2009, 9:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Private Protective Services Board – 12 NCAC 07D .0112, .0806 (Bryan)
 - B. Criminal Justice Education and Training Standards Commission – 12 NCAC 09B .0301 (Bryan)
 - C. Licensing Board for General Contractors – 21 NCAC 12 .0202 (DeLuca)
 - D. Board of Community Colleges – 23 NCAC 02E .0401 (Bryan)
- IV. Review of Log of Permanent Rule filings for rules filed between April 21, 2009 and May 20, 2009 (attached)
- V. Review of Temporary Rules
- VI. Commission Business
 - Next meeting: July 16, 2009

Commission Review

Log of Permanent Rule Filings
April 21, 2009 through May 20, 2009

PESTICIDE BOARD

The rules in Chapter 9 are from the food and drug protection division of the department of agriculture and consumer services.

The rules in Subchapter 9L are from the N.C. Pesticide Board and include organizational rules (.0100); registration (.0300); samples and submissions (.0400); pesticide licenses (.0500); pesticide and pesticide container disposal (.0600); declaration of pests and restrictions on their control (.0700); bulk distribution of pesticides (.0800); aerial application of pesticides (.1000); private pesticide applicator certification (.1100); arsenic trioxide (.1200); availability of restricted use pesticides (.1300); ground application of pesticides (.1400); worker protection standards for agricultural pesticides (.1800); pesticide storage (.1900); chemigation any process whereby pesticides are applied to land, crops, or plants using an irrigation systems (.2000); hearing rules of the North Carolina pesticide board (.2100);_and interim protection measures for the Carolina heelsplitter mussel (.2200).

<u>Definitions</u>	02	NCAC	09L	.2201
Adopt/*				
<u>Pesticide Use Limitation Areas</u>	02	NCAC	09L	.2202
Adopt/*				
<u>Pesticides With Additional Use Limitations</u>	02	NCAC	09L	.2203
Adopt/*				

MEDICAL CARE COMMISSION

The rules in Chapter 13 are from the NC Medical Care Commission.

The rules in Subchapter 13B set standards for the licensing of hospitals including supplemental rules for the licensure of skilled intermediate, adult care home beds in a hospital (.1900); specialized rehabilitative and rehabilitative services (.2000); general information (.3000); procedure (.3100); general requirements (.3200); patients' bill of rights (.3300); supplemental rules for the licensure of critical care hospitals (.3400); grievance and management (.3500); management and administration of operations (.3600); medical staff (.3700); nursing services (.3800); medical record services (.3900); outpatient services (.4000); emergency services (.4100); special care units (.4200); maternal-neonatal services (.4300); respiratory care services (.4400); pharmacy services and medication administration (.4500); surgical and anesthesia services (.4600); nutrition and dietetic services (.4700); diagnostic imaging (.4800); laboratory services and pathology (.4900); physical rehabilitation services (.5000); infection control (.5100); psychiatric services (.5200); nursing and adult care beds (.5300); comprehensive inpatient rehabilitation (.5400); supplemental rules for hospitals providing living organ donation transplant services (.5500); physical plant (.6000); general requirements (.6100); and construction requirements (.6200).

<u>Preservations of Medical Records</u>	10A	NCAC	13B	.3903
Amend/*				

HHS - MENTAL HEALTH, DIVISION OF

The rules in Chapter 27 concern mental health community facilities and services.

The rules in Subchapter 27A are fiscal rules including accounting standards for all recipients of funds administered by the division (.0100); administration of state and federal funds (.0200); clean claims (.0300); and payment, reporting and settlement for local management entities systems management (.0400).

<u>Scope</u>	10A	NCAC	27A	.0401
Adopt/*				
<u>Definitions</u>	10A	NCAC	27A	.0402
Adopt/*				
<u>Monthly Payments and Monthly Reporting</u>	10A	NCAC	27A	.0403
Adopt/*				
<u>Settlement of LME System Management Payments</u>	10A	NCAC	27A	.0404
Adopt/*				

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 43 are from the Department of Health and Human Services and the Commission for Public Health and concern personal health.

The rules in Subchapter 43D concern WIC/Nutrition including definitions (.0100); WIC program general information (.0200);

selection of local WIC agencies (.0300); eligibility for WIC program participation (.0400); WIC program food package (.0500); WIC program nutrition education (.0600); WIC program food delivery system (.0700); WIC program administrative appeals (.0800); WIC program participant fair hearings (.0900); consultation services (.1000); and maternal and child health block grant nutrition program (.1200).

<u>Dietetics</u>	10A	NCAC	43D	.0101
Repeal/*				
<u>Dietitian</u>	10A	NCAC	43D	.0102
Repeal/*				
<u>Nutritionist</u>	10A	NCAC	43D	.0103
Repeal/*				
<u>The American Dietetic Association</u>	10A	NCAC	43D	.0104
Repeal/*				
<u>Home Economist</u>	10A	NCAC	43D	.0105
Repeal/*				
<u>Competent Dietary Professional</u>	10A	NCAC	43D	.0106
Repeal/*				
<u>WIC</u>	10A	NCAC	43D	.0107
Repeal/*				
<u>Description</u>	10A	NCAC	43D	.0201
Amend/*				
<u>Definitions</u>	10A	NCAC	43D	.0202
Amend/*				
<u>References</u>	10A	NCAC	43D	.0203
Amend/*				
<u>Contract with FNS</u>	10A	NCAC	43D	.0204
Amend/*				
<u>General Administration</u>	10A	NCAC	43D	.0206
Repeal/*				
<u>Local WIC Agency Agreement and Budget</u>	10A	NCAC	43D	.0207
Amend/*				
<u>Criteria for Selection of Local Agencies</u>	10A	NCAC	43D	.0302
Amend/*				
<u>Continuation of Local Agencies</u>	10A	NCAC	43D	.0303
Amend/*				
<u>Termination of Local WIC Agencies</u>	10A	NCAC	43D	.0305
Amend/*				
<u>Eligibility</u>	10A	NCAC	43D	.0401
Repeal/*				
<u>Application</u>	10A	NCAC	43D	.0402
Repeal/*				
<u>Medical and Nutrition Assessment</u>	10A	NCAC	43D	.0403
Repeal/*				
<u>Nutritional Risk Certification Criteria</u>	10A	NCAC	43D	.0404
Repeal/*				
<u>Schedule of Certification</u>	10A	NCAC	43D	.0405
Repeal/*				
<u>Documentation of Certification</u>	10A	NCAC	43D	.0406
Repeal/*				
<u>Transfer of Certification</u>	10A	NCAC	43D	.0407
Repeal/*				
<u>Waiting List</u>	10A	NCAC	43D	.0408

Amend/*				
<u>Required Notification</u>	10A	NCAC	43D	.0409
Repeal/*				
<u>Participant Violations and Sanctions</u>	10A	NCAC	43D	.0410
Amend/*				
<u>Dual Participation</u>	10A	NCAC	43D	.0411
Amend/*				
<u>Supplemental Foods</u>	10A	NCAC	43D	.0501
Amend/*				
<u>Quantity of Foods</u>	10A	NCAC	43D	.0502
Amend/*				
<u>Education of Participants</u>	10A	NCAC	43D	.0601
Repeal/*				
<u>Documentation of Nutrition Education</u>	10A	NCAC	43D	.0602
Repeal/*				
<u>Continuing Education of Staff</u>	10A	NCAC	43D	.0603
Repeal/*				
<u>The Local Agency Nutrition Education Plan</u>	10A	NCAC	43D	.0604
Repeal/*				
<u>The North Carolina Automated WIC System</u>	10A	NCAC	43D	.0701
Amend/*				
<u>Issuance of Food Instruments</u>	10A	NCAC	43D	.0702
Amend/*				
<u>Use of Food Instruments</u>	10A	NCAC	43D	.0703
Amend/*				
<u>Validity of Food Instruments and Cash-Value Vouchers</u>	10A	NCAC	43D	.0704
Amend/*				
<u>Payment of WIC Food Instruments and Cash-Value Vouchers</u>	10A	NCAC	43D	.0705
Amend/*				
<u>Authorized WIC Vendors</u>	10A	NCAC	43D	.0706
Amend/*				
<u>Administration</u>	10A	NCAC	43D	.1001
Repeal/*				
<u>Public Health Dietitians</u>	10A	NCAC	43D	.1003
Repeal/*				
<u>Nutrition Program Consultants</u>	10A	NCAC	43D	.1004
Repeal/*				

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission or the Department of Environment and Natural Resources.

The rules in Subchapter 2B are from the EMC and pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards and classifications themselves (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

<u>Outstanding Resource Waters</u>	15A	NCAC	02B	.0225
Amend/*				
<u>Little Tennessee River Basin and Savannah River Drainage ...</u>	15A	NCAC	02B	.0303
Amend/*				

The rules in Subchapter 2Q are from the EMC and relate to applying for and obtaining air quality permits and include general information (.0100); fees (.0200); application requirements (.0300); acid rain program requirements (.0400); establishment of an air quality permitting program (.0500); transportation facility requirements (.0600); toxic air pollutant procedures (.0700); exempt categories (.0800); and permit exemptions (.0900).

<u>Applicability</u>	15A	NCAC	02Q	.0701
Amend/*				
<u>Exemptions</u>	15A	NCAC	02Q	.0702
Amend/*				
<u>Modifications</u>	15A	NCAC	02Q	.0706
Amend/*				
<u>Demonstrations</u>	15A	NCAC	02Q	.0709
Amend/*				

COASTAL RESOURCES COMMISSION

The rules in Chapter 7 pertain to coastal management and are promulgated by the Division of Coastal Management or the Coastal Resources Commission.

The rules in Subchapter 7H are from the CRC and are the state guidelines for areas of environmental concern including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); wooden groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); general permit for authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); marsh enhancement breakwaters for shoreline protection in estuarine and public trust waters (.2100); general permits for construction of freestanding moorings in established waters and public trust areas (.2200); general permits for replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); general permit for placement of riprap for wetland protection in estuarine and public trust waters (.2400); emergency general permit, to be initiated at the discretion of the secretary of the Department of Environment and Natural Resources for replacement of structures, the reconstruction of primary or frontal dune systems, and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms, provided all replacement, reconstruction and maintenance excavation activities conform to all current standards (.2500); general permit for construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and general permit for the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

<u>Specific Use Standards for Ocean Hazard Areas</u>	15A	NCAC	07H	.0308
Amend/*				
<u>Purpose</u>	15A	NCAC	07H	.1101
Amend/*				
<u>Approval Procedures</u>	15A	NCAC	07H	.1102
Amend/*				
<u>Permit Fee</u>	15A	NCAC	07H	.1103
Amend/*				
<u>General Conditions</u>	15A	NCAC	07H	.1104
Amend/*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1105
Amend/*				
<u>Purpose</u>	15A	NCAC	07H	.1201
Amend/*				

<u>General Conditions</u>	15A	NCAC	07H	.1204
Adopt/*				
<u>Specific Conditions</u>	15A	NCAC	07H	.1205
Adopt/*				

WILDLIFE RESOURCES COMMISSION

The rules in Chapter 10 are promulgated by the Wildlife Resources Commission and concern wildlife resources and water safety.

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

<u>Burke County</u>	15A	NCAC	10F	.0323
Amend/*				

COSMETIC ART EXAMINERS, BOARD OF

The rules in Chapter 14 are from the Cosmetic Art Examiners.

The rules in Subchapter 14J cover the cosmetology curriculum including the beginners' department (.0100); the advanced department (.0200); combined studies (.0300); the course of study (.0400); and credit for study outside of North Carolina (.0500).

<u>Live Model/Mannequin Performance Requirements</u>	21	NCAC	14J	.0207
Amend/*				

PSYCHOLOGY BOARD

The rules in Chapter 54 are from the Board of Psychology and cover general provisions (.1600); application for licensure (.1700); education (.1800); examination (.1900); supervision (.2000); renewal (.2100); professional corporations (.2200); administrative hearing procedures (.2300); rulemaking procedures (.2400); rulemaking hearings (.2500); declaratory rulings, (.2600); health services provider certification (.2700); and ancillary services (.2800).

<u>Licensed Psychologist</u>	21	NCAC	54	.1803
Amend/*				

<u>Activities</u>	21	NCAC	54	.2701
Amend/*				

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

The rules in Chapter 56 are from the Board of Examiners for Engineers and Surveyors and concern the organization of the board (.0100); instructional programs (.0300); records and reports of the board, retention and dispositions (.0400); professional engineer (.0500); professional land surveyor (.0600); rules of professional conduct (.0700); firm registration (.0800); general business entities (.0900); temporary permit (.1000); seal (.1100); rulemaking proceedings (.1200); board disciplinary procedures (.1300); contested cases (.1400); fees (.1500); standards of practice for land surveying in North Carolina (.1600); and continuing professional competency (.1700).

<u>Organization</u>	21	NCAC	56	.0103
Amend/*				

<u>Records of Applications</u>	21	NCAC	56	.0402
Amend/*				

<u>Examinations</u>	21	NCAC	56	.0503
Amend/*				

<u>Requirements for Licensing</u>	21	NCAC	56	.0601
Amend/*				

<u>Standard Certification Requirements</u>	21	NCAC	56	.1103
Amend/*				

RULES REVIEW COMMISSION

<u>Improper Practice by a Licensee</u>	21	NCAC	56	.1301
Amend/*				
<u>Classification/Land Information System/Geographic Informa...</u>	21	NCAC	56	.1608
Amend/*				
<u>Dual Licensees</u>	21	NCAC	56	.1710
Amend/*				
<u>Forms</u>	21	NCAC	56	.1711
Amend/*				

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	Randall May
Selina Brooks	A. B. Elkins II
Melissa Owens Lassiter	Joe Webster
Don Overby	

<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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Partnership T/A C Js Lounge v. ABC Commission	07 ABC 0201	Overby	03/11/08	
Michael Daniel Clair v. T/A Par 3 Bistro v. ABC Commission	07 ABC 1289	Lassiter	10/07/08	
ABC Commission v. Rainbow Enterprises, Inc T/A Club N Motion	07 ABC 1532	Gray	06/20/08	23:05 NCR 489
Benita, Inc., T/A Pantana Bob's v. ABC Commission	07 ABC 1584	Overby	04/21/08	23:01 NCR 141
Original Grad, Inc/ T/A Graduate Food and Pub	07 ABC 1648	Joseph	02/25/08	
N.C. Alcoholic Beverage Control Commission v. Feest Inc.	07 ABC 2135	Gray	09/12/08	
T/A Spankys Sports Bar and Grill				
Don Mariachi Ventures, T/A EL Mariachi Gordo	07 ABC 2155	Webster	11/05/08	
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa	08 ABC 0097	May	09/03/08	
T/A JB Food Mart				
N.C. Alcoholic Beverage Control Commission v. Jenny S. Chanthalacksa	08 ABC 0351	May	09/03/08	
T/A JB Food Mart				
AM Enterprises of Fayetteville, Inc., T/A Izzy's Sports Bar v. ABC Commission	08 ABC 0371	Lassiter	06/13/08	
Bhaves Corporation, T/A K&B Foomart v. ABC Commission	08 ABC 0508	Overby	05/19/08	
Downtown Event Center, Inc. T/A Downtown Event Center v. ABC Commission	08 ABC 0937	May	09/16/08	
<u>CRIME VICTIMS COMPENSATION</u>				
Patricia Ginyard v. Crime Victim Compensation Commission	06 CPS 1720	Gray	05/27/08	
Carrie R. McDougal v. Victims Compensation Services Division	07 CPS 1970	Elkins	05/23/08	
Hillary Holt v. Crime Victims Compensation Commission	07 CPS 2292	Brooks	09/18/08	
Taereka S Johnson v. NC Crime Victims Compensation Commission	08 CPS 0402	Morrison	08/08/08	
Rich's Towing and Service Inc. v. NC Department of Crime Control	08 CPS 0698	May	08/13/08	
And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section				
Steel Supply and Erection Co., Department of Crime Control and Public Safety, Division of State Highway Patrol and Department of Revenue	08 CPS 0777	Overby	05/29/08	
ATS Specialized, Inc, v. Dept. of Crime Control and Public Safety, Div. Of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 0864	May	09/11/08	
Willie Trucking, Inc d/b/a Allstate Transport Co v. Dept. of Crime Control	08 CPS 0897	May	09/11/08	
& Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section				
Randy S. Griffin v. NC Crime Victims Compensation Commission	08 CPS 0995	May	09/11/08	
Kenneth Lee Moore v. Dept. of Crime Control and Public Safety	08 CPS 1093	Webster	10/27/08	
Interstate Crushing Inc. v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1086	Overby	09/29/08	

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Sterett Equipment Company LLC v. N.C. Dept. of Crime Control And Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	08 CPS 1206	Overby	09/29/08
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Dickinson Hauling and Grading., Inc, Tony E. Dickinson, 3134016-9 v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol	08 CPS 1802	Brooks	12/15/08
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A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncioah.com/hearings/decisions/>

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Amanda Hennes v. N.C. Department of Health and Human Services	08 DHR 1696	Gray	09/22/08
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Bobbie L Cribb v. Office of Administrative Hearings	08 DHR 1714	Gray	09/08/08
Irene McLendon/Mikala McLendon v. Value Options	08 DHR 1722	Webster	10/01/08
Keyanna Byrd v. DHHS	08 DHR 1751	Webster	10/01/08
Janelle Gatewood v. Value Options	08 DHR 1763	Webster	10/10/08
Mr. and Mrs. Gregory and Martha Glenn v. HHS	08 DHR 1787	Brooks	10/27/08
Pamela Lynn Downey v. DHHS, Div. of Medical Assistance	08 DHR 1793	Gray	01/26/09
Roxanne Houghton v. Value Options/DMA	08 DHR 1799	Elkins	10/14/08
Rainbow Academy, Dorothy Johnson v. Div. of Child Development DHHS	08 DHR 1838	Brooks	11/03/08

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Joshua Dmae Thompson (Consumer) Sebrema Yvett Thompson (Mother) v. Department of Mental Health	08 DHR 1844	Webster	10/01/08
Christie Moriea Turner v. CMC Carolines Medical Center Mental Health	08 DHR 1848	Gray	10/27/08
Sativa Shalunda Brown v. DHHS, Div. of Health Service Regulation	08 DHR 1869	Gray	12/31/08
JE Cameron DDS & Associates v. DHHS, DMA	08 DHR 1885	Gray	10/27/08
Wendy McMillian v. DHHS	08 DHR 1887	Elkins	11/05/08
Penny A. Golden v. Medicaid	08 DHR 1890	May	11/05/08
Keystone Charlotte, LLC d/b/a The Keys of Carolina (Administrative Penalty) v. DHHS, Div. of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 1913 08 DHR 1914	Joseph Joseph	11/17/08 11/17/08
Karen D. Barwick DDS PA v. EDS/DHHS	08 DHR 1923	Joseph	10/27/08
Dorothy Graham v. DHHS, Div. of Public Health, Nutrition Services Branch, Child and Adult Care Food Program	08 DHR 1960	Gray	01/07/09
County of Guilford v. DHHS	08 DHR 1965	May	01/15/09
Dyquay Morris v. Value Options	08 DHR 1967	Mann	10/24/08
Chanda Stokely v. DHHS	08 DHR 2002	Brooks	12/09/08
Wanda Hager v. Value Options	08 DHR 2008	Joseph	10/27/08
Austin Cummings v. Value Options	08 DHR 2011	Joseph	01/08/09
Keith Floyd, Rosa Agemang v. DHHS, Div. of Health Service Regulation Mental Health Licensure and Certification Section, Merita Hall	08 DHR 2032	Brooks	11/06/08
Kimberly Marie Condroski v. DHHS, Div. of Health Service Regulation	08 DHR 2045	Brooks	11/06/08
Carrie E. Crosson and Leroy J. Crosson v. Vance County Dept. of Social Services	08 DHR 2048	Joseph	10/28/08
Elizabeth Elaine Croker v. DHHS, Div. of Health Service Regulation	08 DHR 2050	Webster	12/23/09
Stephanie Craven v. Health Care Registry	08 DHR 2051	Joseph	11/25/08
Marsha Hester v. Health Care Personnel Registry	08 DHR 2056	Gray	02/11/09
Dejuan Martell Willis v. DHHS, Div. of Health Service Regulation	08 DHR 2074	Joseph	01/06/09
David Haqq v. DHHS	08 DHR 2076	Gray	11/07/08
Shane Howell v. Value Options	08 DHR 2077	Joseph	11/05/08
Towanna Yvette Patterson v. DHHS, Div. of Health Service Regulation	08 DHR 2104	Brooks	12/17/08
Forever Young Group Care LLC T/A FY Inc v. DHHS, Div. of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 2159	Lassiter	01/16/09
Shirley Hawls v. DHHS	08 DHR 2225	Joseph	01/08/09
Bennett Short v. Medicaid	08 DHR 2226	Mann	12/18/08
ReNu Life Extended, Diane Harrison CEO, v. Div. of Health Service Regulation, Licensure Division, Barbara Ryan, Chief	08 DHR 2256	Gray	02/03/09
Naomi J. Silver v. DHHS	08 DHR 2257	Gray	01/22/09
Pearline H. White v. DHHS	08 DHR 2263	Mann	01/15/09
Cynthia McMillian v. Div. of Child Development	08 DHR 2273	Overby	01/23/09
Zarie D. Wooten v. DHHS, Division of Child Development	08 DHR 2294	May	02/13/09
David McBrayer v. Value Options	08 DHR 2303	Brooks	12/01/08
Diane Harrison, ReNu Life Extended, Inc., v. Adult Care Section, Div. of Health Service Regulation	08 DHR 2304	Gray	02/03/09
Family Network Services, Inc., Ron Blake, Altrice Gales	08 DHR 2311	Joseph	12/01/08
Laverne Jones, Jeffrey's Rest Home v. DHHS	08 DHR 2343	Webster	02/23/09
Sabrina Brower v. Value Options/DHHS	08 DHR 2373	Mann	01/13/09
Emmanuel House, Erthel J. Anderson v. DHHS, Div. of Medical Asst.	08 DHR 2382	Gray	12/10/08
William P. Miller, Chapter 11 Trustee for Debtor Faiger M. Blackwell (Dogwood Forest) v. DHHS, Div. of Health Service Regulation Adult Care Licensure Section	08 DHR 2388	Gray	11/06/08
Alexandria Adelaide, dba Pine Forrest Home v. DHHS, DFS – Adult Care Licensure Section	08 DHR 2408	Webster	12/11/08
Grace K. Thomas v. DHHS	08 DHR 2450	Gray	02/17/09
Donna C. Hilemon v. Dept. of Social Services, OAH Clerks – Kim Hausen	08 DHR 2456	Brooks	02/02/09
James Pardue President and CEO Ralph Scott Lifeservice, Inc v. DHHS	08 DHR 2567	Gray	12/11/08
Debora Bolton Stamatakis DDS PA, DR. Stamatakis & Nick Stamatakis v. DHHS, Emery Milliken	08 DHR 2580	Gray	02/23/09
Regina McCall QP, Turning Pointe Group Home Inc. v. OAH, Mental Health Licensure & Certification Section	08 DHR 2703	Overby	01/30/09
Victoria J. Deranamie v. DHHS, Div. of Health Service Regulation	08 DHR 3048	May	02/23/09
Ikkuoma A. Mbonu v. DHHS, Health Care Personnel Registry	09 DHR 0447	Lassiter	02/19/09

DEPARTMENT OF CORRECTION

Robert Allen Sartori v. DOC	08 DOC 2651	Gray	12/16/08
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DEPARTMENT OF JUSTICE

Jamu Kimyakki Sanders v. N.C. Criminal Justice Education And Training Standards Commission	06 DOJ 1741	May	08/29/08
Dallas Ray Joyner v. Criminal Justice Education and Training Standards	07 DOJ 0719	Overby	04/15/08

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Richard Junior Hopper v. Private Protective Services Board	07 DOJ 1071	Webster	02/21/08
Sheldon Avery McCoy v. Criminal Justice Education and Training Standards Commission	07 DOJ 1162	Mann	04/07/08
David Steven Norris v. Private Protective Services Board	07 DOJ 1256	Elkins	04/16/08
Scott McLean Harrison v. North Carolina Criminal Justice Education And Training Standards Commission	07 DOJ 1330	Webster	06/24/08
Brian Campbell v. Department of Justice, Company Police Program	07 DOJ 1344	Webster	02/25/08
John Mark Goodin v. Alarm Systems Licensing Board	07 DOJ 1405	Lassiter	04/04/08
James Lee Rodenberg v. Depart. of Justice, Company Police Program	07 DOJ 1434	Webster	02/25/08
Michael L. Scriven v. Private Protective Services Board	07 DOJ 1483	Elkins	03/25/08
Lamuel Tommy Anderson v. North Carolina Department of Justice Campus Police Program	07 DOJ 1500	Joseph	06/03/08
Roger Wayne Mungo, Jr., Sheriffs' Education and Training Standards Commission	07 DOJ 1510	Overby	05/19/08
Steven L. Haire v. North Carolina Department of Justice, Campus Police Program	07 DOJ 1558	Joseph	05/22/08
Timothy Daniel McFalls v. N.C. Criminal Justice Education and Training Standards Commission	07 DOJ 1712	May	09/03/08
Iris Nina Bumpass v. Criminal Justice Education and Training Standards Commission	07 DOJ 2071	Webster	05/16/08
Michael Gerald Copeland v. Private Protective Services Board	07 DOJ 2286	Gray	07/17/08
Leigh Ann Branch v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0177	Gray	06/23/08
Jimmy Dean Poston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0179	Webster	08/28/08
Katheryn Renee Johnson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0180	Brooks	06/18/08
Gerald Boyce Bond, Jr. v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0181	Gray	07/14/08
Lamar Krider v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0183	Gray	06/20/08
John Edward Isaacks, Jr. v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 0184	May	06/18/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0207	Brooks	08/06/08
Joseph Shane Johnston v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0209	Lassiter	10/07/08
Patrick Edsel Cashwell v. Criminal Justice Education and Training Standards Commission	08 DOJ 0498	Webster	10/01/08
Anthony Ray Haynie v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 0532	Brooks	08/06/08
Jonathan R. Elam v. Private Protective Services Board	08 DOJ 0568	Webster	05/08/08
Wilford Odell Hamlin v. Private Protective Services Board	08 DOJ 0713	Joseph	05/01/08
Stephen Joseph Ciliberti v. N.C. Private Protective Services Board	08 DOJ 0858	Gray	07/15/08
Lawrence William Sitgraves v. Sheriffs' Education and Training Standards Commission	08 DOJ 1036	May	09/16/08
Deborah Moore Anderson v. North Carolina Sheriffs' Education And Training Standards Commission	08 DOJ 1038	Brooks	05/28/08
Faneal Godbold v. Criminal Justice Education and Training Standards Commission	08 DOJ 1077	Gray	12/12/08
Dustin Elvin Campbell v. Criminal Justice Education and Training Standards Commission	08 DOJ 1078	Lassiter	07/14/08
Cynthia Kay Saintsing v. Criminal Justice Education and Training Standards Commission	08 DOJ 1079	Lassiter	07/14/08
Timothy C. Darrh v. DHHS/Value Options	07 DOJ 1239	Overby	07/07/08
David Alan Moore v. North Carolina Private Protective Services Board	08 DOJ 1264	Morrison	07/21/08
Gregory Alan Hooks v. NC Alarm Systems Licensing Board	08 DOJ 1265	Morrison	07/10/08
Kimberly Blue Cameron v. Sheriffs' Education and Training Standards Commission	08 DOJ 1269	Overby	10/13/08
Jesse Adam Salmon v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1270	Overby	09/15/08
Tina Ann Ward v. N.C. Sheriffs' Education and Training Standards Commission	08 DOJ 1273	Gray	08/29/08
P.J. Shelton v. NC Sheriffs' Education and Training Standards Commission	08 DOJ 1274	Brooks	10/10/08
Stephen Matthew Crotts v. Sheriffs' Education and Training Standards Commission	08 DOJ 1275	Brooks	10/27/08
Danny Dwight Jordan v. Private Protective Services Board	08 DOJ 1594	Overby	10/14/08
Reshella Moore v. Sheriffs' Education and Training Standards Comm.	08 DOJ 1846	Joseph	09/25/08
Jamaal Ahkiem Gittens v. Private Protective Services Board	08 DOJ 1867	May	10/08/08
Ryan Ginn v. Criminal Justice Education and Training Standards	08 DOJ 1927	Gray	11/12/08

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Commission			
Matthew William MacDonald v. Criminal Justice Education and Training Standards Commission	08 DOJ 2033	Brooks	12/01/08
Ronald Lewis Leak v. Private Protective Services Board	08 DOJ 2080	Overby	10/14/08
Penny Thomas Schronce v. Sheriffs' Education and Training Standards Commission	08 DOJ 2109	Brooks	12/01/08
Dwight Wendell Parker v. Criminal Justice Education and Training Standards Commission	08 DOJ 2110	Gray	10/27/08
Aaron McDowell v. Company Police Program	08 DOJ 2176	Brooks	01/05/09
Richard Bryant Honeycutt v. Criminal Justice Education and Training Standards Commission	08 DOJ 2209	May	12/31/08
James Percy Stancil III v. Sheriffs' Education and Training Standards Commission	08 DOJ 2489	Joseph	12/31/08
David L. Walser v. Private Protective Services Board	08 DOJ 2561	Webster	01/06/09

DEPARTMENT OF LABOR

Sandra Leroux, Leroux Entertainment Corporation d/b/a Spectacular Events! V. DOL	08 DOL 0754	May	07/08/08
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DEPARTMENT OF TRANSPORTATION

Kevin Douglas v. Dept. of Justice Criminal Justice Standards, DMV License and Theft, Holly Springs Police Department	07 DOT 2221	Webster	05/12/08
Terry J. Kyte, Pres. Kyte Construction v. DMV	08 DOT 1517	Elkins	12/03/08
Benjamin Cartwright Simmons III, Citation #3131650-8 v. DMV	08 DOT 1774	Lassiter	11/03/08

DEPARTMENT OF STATE TREASURER

Robert A. Gabriel Sr. v. DST	05 DST 0586	Gray	12/31/08	23:16 NCR 1695
Trevor Allan Hampton v. N.C. State Retirement Systems	07 DST 1493	Overby	09/08/08	
Patricia V. Leonard v. State Treasurer/Retirement Systems Division	07 DST 1928	Lassiter	03/12/08	
William S. Greene v. DST, Retirement Systems Division	08 DST 0235	Gray	07/16/08	23:05 NCR 524
Jerry Alan Reese v. DST, State and Local Finance Division and the Local Government Commission	08 DST 0256	Morrison	07/25/08	
Charles C. Williams, Sr., v. Dept. of Treasurer	08 DST 0736	Elkins	10/27/08	

ETHICS COMMISSION

Earnest Waters v. State Ethics Commission	08 EBD 2375	Gray	02/13/09
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Stephen Miller Gibson v. DPI	07 EDC 0121	May	09/17/08
Bradford Dale Gulley v. Depart. of Education Attorney Generals Office	07 EDC 1486	Webster	05/16/08
Lucretia Burrus v. State Board of Education	07 EDC 2210	Webster	05/16/08
Gregory Bates v. DPI, Licensure Section	07 EDC 2238	Gray	04/30/08
Heather S. Brame v. State Board of Education	07 EDC 2287	Joseph	05/07/08
Nancy L. Ashburn v. NC Department of Public Instruction	07 EDC 2357	Brooks	08/19/08
Sandra Chesser v. State Board of Education	08 EDC 0022	May	04/30/08
Terry L. Moore v. N.C. Department of Public Instruction	08 EDC 0386	Morrison	07/22/08
Len Stevenson Smith v. North Carolina Department of Public Instruction	08 EDC 0215	May	08/26/08
Hubert Thomas Byrum v. Office of State Superintendent	08 EDC 0619	Gray	06/04/08
David Lynn Cox v. Dept. of Public Instruction	08 EDC 0824	Webster	11/03/08
Gary Alan Cooper v. N.C. State Board of Education	08 EDC 0920	Gray	08/01/08
Beulah Sowell Bolton v. DPI	08 EDC 1004	Overby	10/28/08
Selena Blad v. NC Board of Education	08 EDC 1316	Brooks	09/17/08
Ceretha Sherrill v. State Superintendent's Ethics Committee	08 EDC 2073	Brooks	11/05/08
Elizabeth Ann Flow v. DPI	08 EDC 2241	Brooks	12/11/08
Robin M C Perlman v. State Board of Education	08 EDC 2316	May	02/13/09

DEPT. OF ENVIRONMENT AND NATURAL RESOURCES

Freedman Farms v. DENR, Div. of Water Quality	05 EHR 0905	Overby	10/23/08	
Anderson Sand & Grave; LLC, Gerald L. Anderson LLC, and Gerald Anderson	05 EHR 1787	Gray	10/29/08	23:16 NCR 1701
Henry S. Cowell, III and Carolyn Dressler v. DENR, Div. of Coastal Management	06 EHR 1185	Brooks	05/30/08	23:05 NCR 501
Robin R. Moore v. DENR, Division of Waste Management	06 EHR 1479	Lassiter	03/24/08	
Ray Sael v. DENR, Div. of Water Quality	06 EHR 1671	Gray	01/22/09	
Mr. Robert W. Elmore v. Division of Environmental Health, Onside Water Protection Section	06 EHR 2232	Webster	01/07/09	
Laurel Valley Watch and Clean Water for North Carolina, Inc., v. Div. of Water Quality, DENR and Scenic Wolf Development, LLC	06 EHR 2393	Gray	12/08/08	

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NC Coastal Federation v. DENR, Division of Coastal Management and Wind over Waves, LLC	07 EHR 0345	Lassiter	04/07/08
John B. Chastain, Jr., W.B. Chastain v. N.C. Department of Environment and Natural Resources	07 EHR 0722	Brooks	06/26/08
Terry Hill DAQ 2007-015 v. DENR, Division of Air Quality	07 EHR 0937	Morrison	04/08/08
Frank Home Construction, Inc. v. Division of Water Quality	07 EHR 1061	Webster	05/12/08
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1140	Overby	08/20/08
Durham Land Associates LLC v. County of Durham, Engineering Department	07 EHR 1141	Overby	08/20/08
Dennis L. Jude v. NC Department of Environment and Natural Resources	07 HER 1238	Webster	08/20/08
Martha and Charles Morton v. N.C. Department of Environment And Natural Resources	07 EHR 1297	Overby	06/02/08
Kenneth & Mary Anne Sutton v. DENR, Division of Coastal Management	07 EHR 1316	Overby	05/09/08
William Lewell Huff v. N.C. Department of Environment and Natural Resources	07 EHR 1579	Overby	06/02/08
Stridemark, LLC v. North Carolina Department of Environment and Natural Resources, Division of Air Quality	07 EHR 1564	Webster	07/17/08
Gleason James v. Appalachian District Health Department	07 EHR 2073	Brooks	09/05/08
Senia I. Parker v. Environmental Management Commission	07 EHR 2082	Webster	10/24/08
Bateman Trucking, Inc., James K. Bateman v. Cherokee County Health Department, Environmental Health Division	07 EHR 2180	Brooks	01/15/09
Frank Myers Investments, LLC v. DENR	07 EHR 2377	May	05/28/08
W Russell Overman Martin County Water & Sewer District v. DENR Public Water Supply Section	08 EHR 0345	Gray	06/10/08
Christopher E. Taylor, Jane Taylor v. DENR, Land Quality Section	08 EHR 0512	Brooks	12/09/08
Ray Poole's Park, Jean Poole v. DENR, Public Water Supply Section	08 EHR 0563	Joseph	05/16/08
Allen Johnson v. DENR, Div. of Air Quality and Teresa Tart v. DENR Div. of Air Quality	08 EHR 0567	Webster	10/28/08
Allen Johnson v. DENR, Div. of Air Quality and Teresa Tart v. DENR Div. of Air Quality	08 EHR 0587	Webster	10/28/08
Joe S. Edge Sr. v. N.C. Department of Environment and Natural Resources	08 HER 0757	Gray	09/17/08
Donald Lindsay v. Cherokee County Health Dept.	08 EHR 0764	Brooks	07/10/08
Joel M. Walker v. Division of Water Quality Well Contractors Certification Commission	08 EHR 0985	Joseph	06/11/08
George Bess, Sr., v. DENR, Div. of Air Quality	08 EHR 1000	Overby	10/28/08
Eddie Verdis Hood v. N.C. Department of Environment and Natural Resources	08 EHR 1073	Overby	07/30/08
John S. Stirewalt, Architect, Agent for B. Parker Overton, Landowner v. DENR, Div of Coastal Management	08 EHR 1090	Webster	11/24/08
Research Triangle Institute v. Division of Waste Management, Hazardous Waste Section, DENR	08 EHR 1100	Overby	07/11/08
Tracie Locklear, Ammie Brewer-James, Native Designs Hair & Tanning Salon v. DENR, Health Radiation Protection	08 EHR 1143	Gray	7/17/08
Donna C Garrett v. Cherokee County Health Dept., Environmental Health Division	08 EHR 1246	Brooks	09/09/08
Riegel Ridge Partners v. DENR, Div. of Waste Management	08 EHR 1414	Gray	12/17/08
Michael J. Campbell v. Rowan County Health Department	08 EHR 1572	Books	10/10/08
Roray Kent Mishak, Town of China Grove v. NCDENR, Public Water Supply Section	08 EHR 1573	Brooks	09/08/08
Bethel Jr. High School NC 144418, Heather Teague v. DENR Public Water Supply Section	08 EHR 1810	Brooks	10/10/08
The Village of Walnut Creek PWS ID#NC0496155 v. DENR Public Water Supply Section	08 EHR 1892	Gray	11/18/08
The Village of Walnut Creek PWS ID#NC0496155 v. DENR, Public Water Supply Section	08 EHR 1930	Gray	11/07/08
Tabernacle Week Day School Cynthia M. Doyle v. DENR, Public Water Supply Section	08 EHR 1984	Mann	10/20/08
Michael Chapman FV Productions v. Stanly County Environmental Health Dennis R. Joyner, Health Director Division of Environment Health Terry Pierce, Director	08 EHR 1986	Lassiter	11/03/08
Carl J. Peters and Color Works v. City of Raleigh	08 EHR 2005	Joseph	10/28/08
Michael J. Carnes v. DENR, Div. of Air Quality	08 EHR 2042	Brooks	01/06/09
Country Fun Land Inc., A North Carolina Corporation v. DENR, Div. of Water Quality	08 EHR 2470	Elkins	02/04/09
Pro Dev 8, LLC v. City of Raleigh, Stormwater Management Division	08 EHR 3308	Joseph	01/08/09
Gary Kelly v. Div. of Air Quality	09 EHR 0219	Gray	02/17/09

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Ronald Caleb White v. Employment Security Commission UI Division 08 ESC 2568 Joseph 12/12/08

DEPARTMENT OF INSURANCE

Sandra Vanderbeek v. Teachers' and State Employees' Comprehensive Major Medical Plan 07 INS 1130 Overby 03/12/08

Benjamin Brodey, Inger Brodey, Clara Brodey 07 INS 1139 Elkins 10/24/08

Nettie C Minshew v. North Carolina State Health Plan 07 INS 1319 Gray 09/08/08

Albert N. Whiting, by his daughter, Brooke E. Whiting v. Teachers' and State Employees' Comprehensive Major Medical Plan 07 INS 1431

Alesha D Carter v. State Health Plan 07 INS 1858 Lassiter 05/19/08

Maria Patricia Rivera v. Teachers' and State Employees' Comprehensive Major Medical Plan 08 INS 0035 Joseph 09/16/08

Esther A. Scott v. State Health Plan 08 INS 0819 Gray 10/31/08

Judith Kay Klink v. State Health Plan Teachers' Comprehensive Health Plan 08 INS 0846 Overby 10/20/08

Michelle Patton v. Blue Cross Blue Shield State Health Plan 08 INS 1039 Joseph 12/04/08

David Danmyer for Nancy Danmeyer v. Teachers' and State Employees' Comprehensive Major Medical Plan 08 INS 1575 May 10/15/08

23:16 NCR 1711

MISCELLANEOUS

Kevin Edral Douglas v. Wake County District Attorney, DMV 07 MIS 1976 Webster 05/12/08

Jeannie L Day v. City of Asheville Control, Brenda Sears Officer White 08 MIS 0895 Brooks 08/18/08

Promise Land Ministries Inc., Joel K. Wilson v. Mitchell County Tax Assessor and Board of Equalization 08 MIS 1447 May 09/17/08

Catherine Seay v. Judge Debra Sasser, Wake County District Court Civil Division 08 MIS 2295 Elkins 11/24/08

OFFICE OF STATE PERSONNEL

Marsha A Early v. Durham County Department of Social Services 01 OSP 0279 Lassiter 04/02/08

Cheryl Best v. Columbus County Department of Social Services 06 OSP 2206 Lassiter 09/10/08

Scott Burgess v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol 07 OSP 0052 Gray 07/16/08

Ralph Mitchell Foard v. Highway Patrol 07 OSP 0135 Webster 11/06/08

Divina P. Shields v. North Carolina State University 07 OSP 0317 Lassiter 07/11/08

Milton R. Perry v. DOT 07 OSP 0362 Lassiter 12/16/08

Jacqueline B. Maynard v. UNC 07 OSP 0575 Webster 04/08/08

Warren R. Follum v. NCSU 07 OSP 0577 Webster 03/21/08

Sharon P. House v. UNC 07 OSP 0630 Webster 04/08/08

Marcus Guy v. A&T University 07 OSP 0760 Webster 09/16/08

Michael Phillips v. A&T State University 07 OSP 0833 Overby 11/12/08

Pam Moses v. Macon County Health Department 07 OSP 0945 Overby 06/30/08

Cassandra F. Barner v. Halifax County Department of Social Serv. 07 OSP 1186 Joseph 05/16/08

Michael Shelton Woody v. DENR, Division of Forest Resources 07 OSP 1255 Brooks 05/13/08

Kelley M. Buck v. Dare County Department of Social Services 07 OSP 1385 Overby 05/27/08

Dennis E. Hrynkow v. Dept. of Insurance 07 OSP 1400 Joseph 04/03/08

Stacey M. Gasque v. N.C. Department of Corrections 07 OSP 1479 Overby 06/09/08

Betty J. LaBombard v. Hoke County Department of Social Services 07 OSP 1860 Joseph 10/01/08

James Dobaly v. North Carolina Department of Health and Human Services 07 OSP 1873 Lassiter 07/02/08

Adley K. Prager v. Dept. of Crime Control and Public Safety and Butner Public Safety 07 OSP 2011 Webster 05/29/08

Charlene J. Shaw v. Peter Bucholz, Hoke Correctional Institution 07 OSP 2012 Joseph 04/07/08

Jacqueline Burkes v. DOC, Hoke 4320, Mr. Peter Bucholz 07 OSP 2047 Joseph 04/07/08

Charles Jones v. Bryan Beatty, Secretary of Crime Control & Public Safety and The Dept. of Crime Control & Public Safety (NC Highway Patrol) 07 OSP 2222 Morrison 06/05/08

23:05 NCR 528

23:01 NCR 147

Norman K. Goering v. Crime Control and Public Safety, Highway Patrol 07 OSP 2256 Joseph 07/29/08

23:05 NCR 547

Brenda S. Williamson v. DHHS 08 OSP 0058 Gray 10/15/08

Kimberly James v. UNC-Charlotte 08 OSP 0146 Webster 05/08/08

Nancy Hester v. Guilford County AOC Pretrial Services 08 OSP 0224 Overby 06/19/08

Elizabeth Frazier v. Western Carolina University 08 OSP 0246 Brooks 12/09/08

Ray Stanford Williams Jr. v. NC Department of Cultural Resources 08 OSP 0529 Morrison 08/19/08

Jacqueline Yvette Lowry v. Durham County, Department of Social Services 08 OSP 0552 May 10/08/08

23:16 NCR 1722

Laura L. Holliman v. Caledonia Correctional Inst. 08 OSP 0591 Gray 07/08/08

Ashley K. Severson v. Greene County 08 OSP 0611 Joseph 07/29/08

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Sharon V Blackmon v. Office of Administrative Hearings	08 OSP 0624	Gray	09/19/08
Richard D. Lincoln v. DOT	08 OSP 0801	Gray	05/27/08
Robert M. Hewitt v. Morrison Correctional Institute	08 OSP 0971	Gray	06/26/08
Kenyatta Burrus v. Craven County Clerk of Superior Court	08 OSP 1089	Overby	06/12/08
Dexter J. Hill v. Department of Agriculture and Consumer Services	08 OSP 1167	Overby	07/08/08
Rita McKeithan v. Stanly County Department of Social Services	08 OSP 1240	May	08/26/08
Dianna Humphrey v. Caswell Center	08 OSP 1327	Lassiter	07/02/08
Charles Godwin v. NC Department of Crime Control and Public Safety	08 OSP 1463	Lassiter	07/28/08
Reid DuBose III v. Dept. of Commerce	08 OSP 1476	Lassiter	10/31/08
Vincent Morton v. Cherry Hospital	08 OSP 1497	Webster	09/16/08
Kyla Solomon v. Office of Citizen Services	08 OSP 1547	Lassiter	07/22/08
Larry Campbell v. OSP	08 OSP 1558	Webster	01/06/09
Richard Manson v. NC A&T State University	08 OSP 1561	Brooks	09/25/08
Kenneth L. Cassidy v. DOT, DMV	08 OSP 1584	Morrison	10/31/08
Richard T Ward v. NC DOT Ferry Division	08 OSP 1617	Lassiter	08/27/08
Patrice A Bernard v. NC A&T	08 OSP 1724	Gray	09/18/08
Karen E. Browder v. Forsyth County Department of Social Services	08 OSP 1771	Gray	11/17/08
Robert Sanchez-Langston or Joe Raymond			
JoAnn C. Walker v. DOA	08 OSP 1976	Brooks	12/23/08
Lakeshia A. Jones v. DOC	08 OSP 2229	Webster	01/07/09
Prudentia Ngwainmbi v. Elizabeth Sate University	08 OSP 2240	Joseph	12/08/08
Darryl R. McCathan v. DOC	08 OSP 2274	Gray	01/03/09
Josephine Hood v. Dorothea Dix Hospital Food and Nutrition	08 OSP 2276	Webster	12/23/08
Garland Morman v. Dorothea Dix Hospital Food and Nutrition	08 OSP 2277	Webster	01/06/09
Jackie L. Eley v. DHHS, Hearing Office	08 OSP 2286	Gray	01/06/09
Charles V. Nichols v. DOC	08 OSP 2314	Brooks	01/08/09
James C. Bailey, Jr v. Cherry Hospital, DHHS	08 OSP 2432	Gray	01/16/09
Tony Chambers v. Dept. of Juvenile Justice and Delinquency Prevention	08 OSP 2692	Brooks	01/05/09

RESPIRATORY CARE BOARD

Angelique Thompson v. Respiratory Care Board	07 RCB 1176	Gray	03/13/08	23:01 NCR 153
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Richard C Garrard Jr. v. NC Department of Secretary of State	07 SOS 2080	Brooks	09/12/08
Bennett Jeffrey Packer v. North Carolina Department of The Secretary of State	07 SOS 2241	May	06/09/08
Hope Taylor (formerly Taylor-Guevara) v. North Carolina Department of The Secretary of State	07 SOS 2280	Joseph	05/21/08
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Robert C Garrard Jr. v. NC Department of Secretary of State	08 SOS 0523	Brooks	09/12/08
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UNC HOSPITALS

Deborah A. Fearrington v. UNC Hospitals, Patient Account Services	07 UNC 2248	Webster	11/05/08
Charity Smith v. UNC Hospitals	08 UNC 0533	Gray	07/28/08
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Marcus M. McCullers v. UNC Hospitals	08 UNC 0928	Gray	07/30/08
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