

NORTH CAROLINA REGISTER

VOLUME 24 • ISSUE 23 • Pages 2011 - 2154

June 1, 2010

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Contact List for Rulemaking Questions or Concerns

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

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

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

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Rule Review and Legal Issues

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

contact: Joe DeLuca Jr., Commission Counsel joe.deluca@oah.nc.gov (919) 431-3081
Bobby Bryan, Commission Counsel bobby.bryan@oah.nc.gov (919) 431-3079

Fiscal Notes & Economic Analysis

Office of State Budget and Management
116 West Jones Street (919) 807-4700
Raleigh, North Carolina 27603-8005 (919) 733-0640 FAX
Contact: Anca Grozav, Economic Analyst osbmruleanalysis@osbm.nc.gov (919)807-4740

NC Association of County Commissioners
215 North Dawson Street (919) 715-2893
Raleigh, North Carolina 27603
contact: Jim Blackburn jim.blackburn@ncacc.org
Rebecca Troutman rebecca.troutman@ncacc.org

NC League of Municipalities (919) 715-4000
215 North Dawson Street
Raleigh, North Carolina 27603
contact: Erin L. Wynia ewynia@nclm.org

Governor's Review

Edwin M. Speas, Jr. edwin.speas@nc.gov
General Counsel to the Governor (919) 733-5811
116 West Jones Street
20301 Mail Service Center
Raleigh, North Carolina 27699-0301

Legislative Process Concerning Rule-making

Joint Legislative Administrative Procedure Oversight Committee
545 Legislative Office Building
300 North Salisbury Street (919) 733-2578
Raleigh, North Carolina 27611 (919) 715-5460 FAX

contact: Karen Cochrane-Brown, Staff Attorney Karen.cochrane-brown@ncleg.net
Jeffrey Hudson, Staff Attorney Jeffrey.hudson@ncleg.net

NORTH CAROLINA REGISTER
 Publication Schedule for January 2010 – December 2010

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
24:13	01/04/10	12/09/09	01/19/10	03/05/10	03/22/10	05/01/10	05/12/10	10/01/10
24:14	01/15/10	12/22/09	01/30/10	03/16/10	03/22/10	05/01/10	05/12/10	10/12/10
24:15	02/01/10	01/08/10	02/16/10	04/05/10	04/20/10	06/01/10	01/26/11	10/29/10
24:16	02/15/10	01/25/10	03/02/10	04/16/10	04/20/10	06/01/10	01/26/11	11/12/10
24:17	03/01/10	02/08/10	03/16/10	04/30/10	05/20/10	07/01/10	01/26/11	11/26/10
24:18	03/15/10	02/22/10	03/30/10	05/14/10	05/20/10	07/01/10	01/26/11	12/10/10
24:19	04/01/10	03/11/10	04/16/10	06/01/10	06/21/10	08/01/10	01/26/11	12/27/10
24:20	04/15/10	03/24/10	04/30/10	06/14/10	06/21/10	08/01/10	01/26/11	01/10/11
24:21	05/03/10	04/12/10	05/18/10	07/02/10	07/20/10	09/01/10	01/26/11	01/28/11
24:22	05/17/10	04/26/10	06/01/10	07/16/10	07/20/10	09/01/10	01/26/11	02/11/11
24:23	06/01/10	05/10/10	06/16/10	08/02/10	08/20/10	10/01/10	01/26/11	02/26/11
24:24	06/15/10	05/24/10	06/30/10	08/16/10	08/20/10	10/01/10	01/26/11	03/12/11
25:01	07/01/10	06/10/10	07/16/10	08/30/10	09/20/10	11/01/10	01/26/11	03/28/11
25:02	07/15/10	06/23/10	07/30/10	09/13/10	09/20/10	11/01/10	01/26/11	04/11/11
25:03	08/02/10	07/12/10	08/17/10	10/01/10	10/20/10	12/01/10	01/26/11	04/29/11
25:04	08/16/10	07/26/10	08/31/10	10/15/10	10/20/10	12/01/10	01/26/11	05/13/11
25:05	09/01/10	08/11/10	09/16/10	11/01/10	11/22/10	01/01/11	01/26/11	05/29/11
25:06	09/15/10	08/24/10	09/30/10	11/15/10	11/22/10	01/01/11	01/26/11	06/12/11
25:07	10/01/10	09/10/10	10/16/10	11/30/10	12/20/10	02/01/11	05/2012	06/28/11
25:08	10/15/10	09/24/10	10/30/10	12/14/10	12/20/10	02/01/11	05/2012	07/12/11
25:09	11/01/10	10/11/10	11/16/10	01/03/11	01/20/11	03/01/11	05/2012	07/29/11
25:10	11/15/10	10/22/10	11/30/10	01/14/11	01/20/11	03/01/11	05/2012	08/12/11
25:11	12/01/10	11/05/10	12/16/10	01/31/11	02/21/11	04/01/11	05/2012	08/28/11
25:12	12/15/10	11/22/10	12/30/10	02/14/11	02/21/11	04/01/11	05/2012	09/11/11

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

State of North Carolina



BEVERLY EAVES PERDUE
GOVERNOR

EXECUTIVE ORDER NO. 58
EMERGENCY RELIEF FOR DAMAGE
CAUSED BY FLOODING IN THE STATE OF TENNESSEE

WHEREAS, the Governor of Tennessee has proclaimed that a State of Emergency exists in Tennessee due to Flooding from Storms and due to the imminent threats thereby, has requested that North Carolina issue an executive order allowing an exemption from 49 CFR 390.23 (Federal Motor Carrier Safety Regulations); and

WHEREAS, under the provisions of N.C.G.S. §§ 166A-4 and 166A-6(c)(3) the Governor, with the concurrence of the Council of State, may regulate and control the flow of vehicular traffic and the operation of transportation services; and

WHEREAS, with the concurrence of the Council of State, I have found that vehicles bearing Food, Fuel, Equipment, Supplies, Utilities, and Temporary Housing to relieve grief stricken areas in Tennessee must adhere to the registration requirements of N.C.G.S. § 20-86.1 and N.C.G.S. § 20-382, fuel tax requirements of N.C.G.S. § 105-449.47, and the size and weight requirements of N.C.G.S. § 20-116 and N.C.G.S. § 20-118; I have further found that citizens in those affected areas will likely suffer losses and, therefore, invoke an imminent threat of widespread damage within the meaning of N.C.G.S. § 166A-4(3).

NOW, THEREFORE, pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina, and with the concurrence of the Council of State, **IT IS ORDERED**:

Section 1. The Department of Crime Control & Public Safety in conjunction with the N.C. Department of Transportation shall waive certain size and weight restrictions and penalties therefore arising under N.C.G.S. § 20-116 and N.C.G.S. § 20-118 for the vehicles transporting Food, Fuel, Equipment, Supplies, Utilities, and Temporary Housing along North Carolina roadways.

Section 2. Notwithstanding the waivers set forth above, size and weight restrictions and penalties **have not been waived** under the following conditions:

- (A) When the vehicle weight exceeds the maximum gross weight criteria established by the manufacturer (GVWR) or 90,000 pounds gross weight, whichever is less.

- (B) When the tandem axle weight exceeds 42,000 pounds and the single axle weight exceeds 22,000 pounds.
- (C) When a vehicle/vehicle combination exceeds 12 feet in width and a total overall vehicle combination length 75 feet from bumper to bumper.

Section 3. The size and weight exemption for vehicles will be allowed on all routes designated by the North Carolina Department of Transportation, except those routes designated as light traffic roads under N.C.G.S. § 20-118. This order shall not be in effect on bridges posted pursuant to N.C.G.S. § 136-72.

Section 4. The waiver of regulations under 49 CFR 390.23 (Federal Motor Carrier Safety Regulations) **does not apply** to the CDL and Insurance Requirements. This waiver shall be in effect until July 1, 2010 or the duration of the emergency, whichever is less.

Section 5. The North Carolina State Highway Patrol shall enforce the conditions set forth in Sections 1, 2, 3 and 4 in a manner, which would best accomplish the implementation of this rule without endangering motorists in North Carolina.

Section 6. Upon request, exempted vehicles will be required to produce identification sufficient to establish that its load will be used for emergency relief efforts associated with the Tennessee State of Emergency.

This Executive Order is effective immediately and shall remain in effect until July 1, 2010 or the duration of the emergency whichever is less.

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 eighth day of May in the year of our Lord two thousand and ten and of the Independence of the United States of America the two hundred and thirty-fourth.



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



U.S. Department of Justice
Civil Rights Division

TCH:RSB:JBG:JEM:tst
DJ 166-012-3
2010-0672

Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

April 20, 2010

David A. Holec, Esq.
City Attorney
P.O. Box 7207
Greenville, North Carolina 27835-7207

Dear Mr. Holec:

This refers to the annexation (Ordinance No. 09-92 (2009)) and its designation to District 5 of the City of Greenville in Pitt County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, 42 U.S.C. 1973c. We received your submission on February 23, 2010.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Christian Herren, Jr.", written over the typed name and title.

T. Christian Herren, Jr.
Acting Chief, Voting Section

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

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

Application by: Jason Churchill
Orenco Systems, Inc
814 Airway Ave
Sutherlin, OR 97479

For: Modification to Innovative Approval for Sampling Requirements

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

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

Written public comments may be submitted to DENR within 30 days of the date of the Notice publication in the North Carolina Register. All written comments should be submitted to Mr. Ted Lyon, Chief, On-site Water Protection Section, 1642 Mail Service Center, Raleigh, NC 27699-1642, or ted.lyon@ncdenr.gov, or fax 919.715.3227. Written comments received by DENR in accordance with this Notice will be taken into consideration before a final agency decision is made on the innovative subsurface wastewater system application.

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

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

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02H .0901-.0910, .0912-.0917, .0919-.0921 and adopt the rule cited as 15A NCAC 02H .0922.

Proposed Effective Date: January 1, 2011

Public Hearing:

Date: June 16, 2010

Time: Registration 6:30 p.m./Hearing start time 7:00 p.m.

Location: Archdale Building Ground Floor Hearing Room, 512 North Salisbury Street, Raleigh, NC 27604

Reason for Proposed Action: The purpose of many of the amendments to the State Pretreatment Regulations in 15A NCAC 02H .0900 is to address several aspects of EPA's October 2005 streamlining of the Federal Pretreatment Regulations in 40 CFR 403. This includes granting NC municipalities access to provisions allowing Pretreatment Control Authorities the option to reduce sampling of extremely small industrial users. Other amendments are intended to ensure consistency with the Federal Regulations. These include electronic reporting requirements and revisions to the definition of Significant Noncompliance (SNC) to require separate SNC determinations of daily maximum and monthly averages for the same parameter, and to apply selected SNC criteria such as causing pass through to non-significant industrial users. The remaining amendments are intended to ensure consistency with current DWQ practices and to allow flexibility of DWQ oversight of Pretreatment Programs. This includes amendments to ensure adequate communication and coordination regarding Industrial user discharges in situations where one POTW sends wastewater to another POTW for treatment, sometimes called a "satellite POTW." This situation is becoming more common in NC, especially with regionalization of wastewater services. Other revisions of this type include clarifications regarding submittal of confidential industrial information to DWQ regulators as well as clarifications on sampling requirements, pretreatment permit supporting documentation, and record keeping.

The purpose of the new Rule .0922 is to consolidate and update the adjudicatory hearing conditions to cover pretreatment civil penalties and administrative orders in addition to the adjudication of pretreatment permits already covered in an existing rule.

Procedure by which a person can object to the agency on a proposed rule: A person may attend the Public Hearing on

June 16, 2010, and make relevant verbal comments. Or a person may submit written comments, data, or other relevant information on or before August 2, 2010. The EMC is very interested in all comments pertaining to the proposed new rule and the proposed rule amendments. All persons interested and potentially affected by the proposals are strongly encouraged to read this entire announcement as well as the Proposed Rule, summary of changes, and the other materials available on the PERCS Pretreatment Homepage at <http://portal.ncdenr.org/web/wq/swp/ps/pret>, and make comments on the proposed new rules and the proposed rule amendments. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in the North Carolina Register unless the EMC publishes the text of the proposed different rule and accepts comments on the new rule (see G.S. 150B 21.2(g)). Written comments may be submitted to Deborah Gore of the Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit at NC Division of Water Quality-PERCS, 1617 Mail Service Center, Raleigh, NC 27699-1617, faxed to (919) 807-6489, or emailed to deborah.gore@ncdenr.gov. For those attending the June 16th Public Hearing, the Hearing Officers may limit the length of time for presentations at the Public Hearing, if necessary, so that all those who wish to speak may have an opportunity to do so. Therefore, it is requested that written copies be provided for any statements at the Public Hearing that exceed three minutes.

Comments may be submitted to: Deborah Gore, PERCS Unit Supervisor, NC Division of Water Quality-PERCS; mailing address: 1617 Mail Service Center, Raleigh, NC 27699-1617; physical address: Archdale Building, Room 1304C, 512 North Salisbury Street, Raleigh, NC 27604; phone (919) 807-6383; fax (919) 807-6489; email deborah.gore@ncdenr.gov

Comment period ends: August 2, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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: A copy of the fiscal note can be obtained from the agency.

State - 15A NCAC 02H .0903(b)(33), .0903(b)(34), .0908(b)(6), and .0908(e)(1)

Local - 15A NCAC 02H .0903(b)(33), .0903(b)(34), .0908(b)(6), and .0908(e)(1)

Substantial Economic Impact (≥\$3,000,000)

None - 15A NCAC 02H .0901-.0902, .0904-.0907, .0909-.0910, .0912-.0917, and .0919-.0922

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT COMMISSION

SUBCHAPTER 02H - PROCEDURES FOR PERMITS: APPROVALS

SECTION .0900 - LOCAL PRETREATMENT PROGRAMS

15A NCAC 02H .0901 PURPOSE

(a) The rules in this Section are designed to implement North Carolina General Statutes 143-215.3(a)(14) and 143-215.1 and provisions of the Federal Water Pollution Control Act (also known as the "Clean Water Act") regarding the ~~pretreatment of industrial discharges~~ discharge of non-domestic wastewater into publicly owned treatment works (POTWs). They establish responsibilities of State and local government, industry, and the public to implement Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in POTWs, which may contaminate sewage sludge, or which otherwise have an adverse impact on the POTW, its workers, or the environment.

(b) Copies of rules referenced in this Section may be obtained from the Division of ~~Environmental Management, Water Quality Section~~ Water Quality, Surface Water Protection Section, at the following locations:

- ~~(1) Pretreatment Offices
Archdale Building
P. O. Box 29535, 512 N. Salisbury St.,
Raleigh, N.C. 27626-0535~~
- (1) <http://portal.ncdenr.org/web/wq/swp/ps/pret>
- ~~(2) the North Carolina Department of Environment and Natural Resources,
the Division of Water Quality,
Offices of the Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit
Physical Address: Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604
Mailing Address: 1617 Mail Service Center, Raleigh, NC 27699-1617~~
- ~~(2)(3) Raleigh Regional Office
3800 Barrett Dr.,
Raleigh, NC 27611 27609~~
- ~~(3)(4) Asheville Regional Office
59 Woodfin Pl., 2090 US Highway 70,~~

~~Asheville, N.C.—28801 Swannanoa, NC 28778~~

~~(4)(5) Mooresville Regional Office
919 N. Main St., 610 East Center Avenue,
Suite 301,
Mooresville, NC 28115~~

~~(5)(6) Fayetteville Regional Office
Wachovia System Bldg. Suite 714, 225 Green Street,
Fayetteville, NC 28301~~

~~(6)(7) Washington Regional Office
1424 Carolina Avenue,
Washington, NC 27889~~

~~(7)(8) Wilmington Regional Office
127 Cardinal Drive Extension,
Wilmington, NC 28405-3845~~

~~(8)(9) Winston-Salem Regional Office
8025 North Point Blvd., 585 Waughtown Street,
Winston-Salem, NC ~~27106~~ 27107~~

Authority G.S. 143-215.3(a)(14).

15A NCAC 02H .0902 SCOPE

These Rules apply to:

- (1) Pollutants and wastewater discharges from non-domestic sources covered by Pretreatment Standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in 40 CFR Part 403.3 and Rule .0903 of this Section;
- (2) POTWs and Control Authorities which receive wastewater from sources subject to Pretreatment Standards; and
- (3) Any new or existing source subject to Pretreatment Standards. Pretreatment Standards do not apply to sources which discharge to a sewer which is not connected to a POTW treatment plant.

Authority G.S. 143-215.3(a)(14).

15A NCAC 02H .0903 DEFINITION OF TERMS

(a) Unless otherwise defined in Paragraph (b) of this Rule, the definitions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.3 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at~~ http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) For this Rule the following definitions in addition to those incorporated by reference in Paragraph (a) of this Rule shall apply:

- (1) "Approval Authority" means the Director of the Division of ~~Environmental Management~~ Water Quality of the North Carolina Department of ~~Environment, Health, Environment~~ and Natural Resources, or his/her designee.
- (2) "Average" means the value calculated by dividing the sum of the data values collected over a time period by the number of data points which comprise the sum.
- (3) "Bypass" is the intentional diversion of waste streams from any portion of a pretreatment facility.
- (4) "Commission" means the Environmental Management Commission of the North Carolina Department of ~~Environment, Health, Environment~~ and Natural Resources or its successor.
- ~~(5) "Compliance Judgment Point" or "CJP" is the term used for a value used in calculating significant noncompliance. Compliance judgment points are calculated by summing the number of individual sample values for a parameter and the number of averages of sample values calculated for the same parameter during a six month compliance judgment period.~~
- ~~(6) "Control Authority" refers to:~~
 - ~~(A) the POTW if the POTW's submission for its pretreatment program has been approved and that approval has not been subsequently withdrawn, or;~~
 - ~~(B) the approval authority if the submission has not been approved or the Division has subsequently withdrawn pretreatment program approval.~~
- ~~(5) "Control Authority" refers to the POTW organization if the POTW organization's Pretreatment Program has been approved in accordance with Rules .0905, .0906, and .0907 of this Section, and that approval has not been subsequently withdrawn. Otherwise, the Approval Authority is the Control Authority.~~
- ~~(7)(6) "Division" refers to the North Carolina Department of Environment, Health, Environment and Natural Resources, Division of Environmental Management. Water Quality.~~
- ~~(8)(7) "Enforcement Response Plan" or "ERP" means the POTW Control Authority pretreatment program document describing the guidelines for identifying violations of and enforcing specific local limits and other pretreatment standards and requirements.~~

- ~~(9)(8) "EPA" means the United States Environmental Protection Agency.~~
- ~~(10)(9) "Fundamentally Different Factors" are factors upon which a variance from a National Categorical Pretreatment Standard may be granted. These factors are those relating to an industrial user that are fundamentally different from the factors considered during development of a National Categorical Pretreatment Standard applicable to that user and that may justify a different discharge limit than specified in the applicable National Categorical Pretreatment Standard.~~
- ~~(11)(10) "Headworks Analysis" or "HWA" is the analysis used to calculate the maximum allowable POTW influent loadings for pollutants of concern based on design capacity, permit limits, pass-through, interference, sludge, or worker safety and health considerations. considerations, as applicable. The headworks analysis is the technical basis for deriving local limits applied to industrial users.~~
- ~~(11) "Indirect Discharge" or "Discharge" refers to the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Clean Water Act.~~
- ~~(12) "Industrial User" or "User" means a source of Indirect Discharge.~~
- ~~(12)(13) "Industrial Waste Survey" refers to the periodic survey of the users of the POTW collection system and/or treatment plant performed by the POTW to determine those users meeting the criteria for Significant Industrial User status. Control Authority as required by 40 CFR Part 403.8(f)(2)(i-iii) and Rule .0905 of this Section, including identification of all industrial users and the character and amount of pollutants contributed to the POTW by these industrial users and identification of those industrial users meeting the definition of Significant Industrial User. Where the Control Authority accepts wastewater from one or more satellite POTWs, the IWS for that Control Authority shall address all satellite service areas, unless the pretreatment program in those satellite service areas is administered by a separate Control Authority.~~
- ~~(13)(14) "Interference" refers to inhibition or disruption of the POTW treatment processes; operations; or its sludge process, use, or disposal which causes or contributes to a violation of any requirement of the POTW's Control Authority's (and/or the POTW, if different from the Control Authority) NPDES or Non-Discharge Permit or prevents sewage sludge use or disposal in compliance with specified~~

- applicable State and Federal statutes, regulations, or permits.
- (14) ~~"Long Term Monitoring Plan" or "LTMP" is the monitoring plan designed to collect POTW site specific data for use in the Headworks Analysis.~~
- (15) "Medical Waste" refers to isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (16) "Monitoring Plan" refers to the monitoring plan designed to collect POTW site-specific data for use in the Headworks Analysis. Monitoring Plans may be designated as "Long Term" or "Short Term," LTMP or STMP, respectively, as the Division Director determines to be necessary.
- ~~(16)~~(17) "National Categorical Pretreatment Standard" or "Categorical Standard" refers to any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Federal Clean Water Act which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- ~~(17)~~(18) "National Prohibited Discharge Standard" is an absolute prohibition against the discharge of certain substances to the POTW, including both general and specific prohibitions.
- ~~(18)~~(19) "Net/Gross Calculation" is an adjustment of a categorical pretreatment standard to reflect the presence of pollutants in the industrial user's intake water.
- (19) "New Source" refers to:
- (A) ~~Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(e) of the Federal Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with section 307(e), provided that:~~
- ~~(i) the building, structure, facility, or installation is constructed at a site at which no other source is located; or~~
- ~~(ii) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or~~
- (iii) ~~the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, shall be considered.~~
- (B) ~~Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subparts (19)(A)(ii) or (iii) of this Rule but otherwise alters, replaces, or adds to existing process or production equipment.~~
- (C) ~~For purposes of this definition, construction of a new source has commenced if the owner or operator has:~~
- ~~(i) Begun, or caused to begin, as part of a continuous on-site construction program:~~
- ~~(I) Any placement, assembly, or installation of facilities or equipment; or~~
- ~~(II) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or~~
- ~~(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its~~

- operation ~~within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.~~
- (20) "Noncontact Cooling Water" is water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (21) "Non-discharge Permit" is a permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.
- (22) "Operator in Responsible Charge" is the operator designated to fulfill the requirements of G.S. 90A-44.
- (23) "Pass Through" means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's Control Authority's (and/or the POTW's, if different from the Control Authority), NPDES permit or Non-discharge permit, or of an instream water quality standard. standard even if not included in the permit.
- ~~(24) "Permit Synopsis" refers to a document compiling information from the pretreatment permit application and industry inspection and providing the rationale for the pretreatment permit limits.~~
- ~~(25)~~(24) "Pollutant" includes any waste defined in G.S. 143-213(18); dredged spoil; solid waste; incinerator residue; garbage; sewage sludge; munitions; medical wastes; chemical waste; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal and agricultural waste; and certain characteristics of wastewater, such as pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor.
- ~~(26)~~(25) "Pollutant of Concern" or "POC" is a pollutant identified as being of concern to the POTW Control Authority for purposes of the pretreatment program; pollutants of concern may include but not be limited to conventional wastewater pollutants, such as BOD, TSS, or ammonia; any of the priority pollutants; flow; pH; and any pollutant that may be identified as a source of interference, pass through, whole effluent toxicity, or sludge contamination.
- ~~(27)~~(26) "POTW", or Publicly Owned Treatment Works, means a treatment works as defined by Section 212 of the Federal Clean Water Act (CWA), which is owned by a State or local government entity. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the local government entity, or municipality, as defined in section 502(4) of the CWA, which has jurisdiction over indirect discharges to and the discharges from such a treatment works. In this context, the organization can be the owner of the POTW treatment plant or the owner of the collection system into which an Indirect Discharger discharges. This second type of POTW may be referred to as a "satellite POTW organization." For clarity, the local government may be referred to as the "POTW organization" or "Control Authority" as applicable in this Section. See also Subparagraph (b)(5) of this Rule and Rule .0908(h) of this Section.
- ~~(28)~~(27) "POTW Director" means the chief administrative officer of the ~~publicly owned treatment works~~ Control Authority or his/her delegate.
- ~~(29)~~(28) "Pretreatment" refers to the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. POTW collection system and/or treatment plant. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR ~~Section~~ Part 403.6(d).
- ~~(30)~~(29) "Pretreatment Standard" is any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.
- ~~(31)~~(30) "Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- ~~(32)~~(31) "Removal Credits" are credits, available under certain conditions, that are applicable to categorical industrial users and are used to adjust categorical standards in such a way as to

reflect POTW consistent removal of a particular pollutant.

~~(33)~~(32) "Sewer Use Ordinance" or "SUO" means the ~~local government entity~~ POTW ordinance providing the legal authority for administering the pretreatment program.

(34) ~~"Significant Industrial User" or "SIU" means an industrial user that discharges wastewater into a publicly owned treatment works and that:~~

~~(A) upon the effective date of this Rule until January 1, 1996, discharges an average of 50,000 gallons or more per day of process wastewater to the POTW; effective January 1, 1996, that discharges an average of 25,000 gallons or more per day of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters) or;~~

~~(B) contributes more than 5 percent of the design flow of the POTW treatment plant or more than 5 percent of the maximum allowable headworks loading of the POTW treatment plant for any pollutant of concern, or;~~

~~(C) is required to meet a national categorical pretreatment standard, or;~~

~~(D) is, regardless of Parts (A), (B), and (C) of this definition, otherwise determined by the control authority to have a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement or POTW's receiving stream standard, or to limit the POTW's sludge disposal options.~~

(33) "Significant Industrial User" or "SIU" means an industrial user that discharges wastewater into a publicly owned treatment works and that:

(A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewaters);

(B) Contributes process wastewater of more than five percent of the permitted flow limit of the POTW treatment plant or more than five percent of the maximum allowable headworks loading of the POTW treatment plant for any other pollutant of concern;

(C) Is subject to Categorical Pretreatment Standards under 40 CFR Chapter I, Subchapter N, Parts 405-471;

(D) Is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violation any Pretreatment Standard or requirement, or the POTW's receiving stream standard, or to limit the POTW's sludge disposal options;

(E) Subject to approval under Rule .0907(b) of this Section, the Control Authority may determine that an Industrial User meeting the criteria in Parts (A) and (B) of this Subparagraph has no reasonable potential for adversely affecting the POTW's operation or for violation any Pretreatment Standards or Requirements and thus is not a Significant Industrial User; or

(F) Subject to approval under Rule .0907(b) of this Section, the Control Authority may determine that an Industrial User meeting the criteria in Part (C) of this Subparagraph meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.

~~(35)~~(34) "Significant Noncompliance" or "SNC" is the status of noncompliance of ~~an industrial user a~~ Significant Industrial User when one or more of the following criteria are ~~met~~; met. Additionally, an Industrial User which meets the criteria in Parts (C), (D), or (H) of this Subparagraph shall also be SNC:

(A) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit and the average limit for the same pollutant parameter; this percentage is determined by dividing the total number of violations for the parameter by the number of compliance judgment points for the parameter; taken for the same pollutant parameter (not including flow) due a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of

- all the measurements taken for each the same pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(i) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH); this percentage is determined by dividing the total number of TRC violations for the parameter by the number of compliance judgment points for the parameter);
- (C) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) Pretreatment Standard or Requirement as defined in 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the POTW's Control Authority's, and/or POTW's if different from the Control Authority, exercise of its emergency authority under Paragraph (f)(1)(vi)(B) of 40 CFR 403.8 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge;
- (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a pretreatment permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide, within 30 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation or group of violations that the Control Authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- (36)(35) "Staff" means the staff of the Division of Environmental Management, Water Quality, Department of Environment, Health, Environment and Natural Resources.
- (37)(36) "Upset" is an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (38)(37) "Waste reduction" means source reduction and environmentally sound recycling.
- (39)(38) "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (40)(39) "Waters of the State" are all streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained in, flow through, or border upon the State or any portion thereof.

Authority G.S. 130A-334(13); 143-215.3(a)(1),(14); 150B-21.6.

15A NCAC 02H .0904 REQUIRED PRETREATMENT PROGRAMS

(a) The Regulations regarding pretreatment program development by the POTW Control Authority promulgated by the Environmental Protection Agency and codified as 40 CFR Part Parts 403.8(a) through 40 CFR Part 403.8(e) are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at

http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) The Division may allow a POTW Control Authority having a combined ~~design permitted~~ flow less than or equal to two million gallons per day and ~~having fewer less~~ than four Significant Industrial Users to develop and implement a Modified Pretreatment Program that encompasses a portion of the requirements in Rules .0905 and .0906 of this Section, as designated by the Division Director. ~~A POTW having a combined design flow less than or equal to two million gallons per day and having fewer than four Significant Industrial Users may request that the Director consider the POTW for Modified Pretreatment Program status prior to January 1, 1996 only if the POTW demonstrates that all SIU's meeting the definition of SIU that is effective January 1, 1996 have been identified and permitted, if necessary.~~ In making the decision to allow Modified Pretreatment Program development and implementation, the Division Director may consider factors including but not limited to percent industrial flow, industrial waste characteristics, compliance status of the facility, and the potential for industrial growth.

Authority G.S. 143-215.1(a),(b); 143-215.3(a)(14); 150B-21.6.

15A NCAC 02H .0905 POTW PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS

Except where specified differently in this Section, the POTW pretreatment program requirements promulgated by the Environmental Protection Agency and codified as 40 CFR ~~Part~~ Parts 403.8(f) and (g) are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535.~~ Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3. In general, the implementation of a pretreatment program involves the updating of the Sewer Use Ordinance (SUO); ~~on-going~~ implementation of industrial waste survey (IWS) activities; updating of the Headworks Analysis (HWA), or technical basis for local limits; implementation of the Long or Short Term Monitoring Plan (~~LTMP~~); (LTMP/STMP); ~~on-going~~ implementation of compliance activities, including sampling and inspection of significant industrial users; maintenance of Control Authority organization description; maintenance of staffing and funding information; implementation of the Enforcement Response Plan (ERP), and ~~periodic~~ reporting to the Division on pretreatment program activities.

Authority G.S. 143-215.1(a),(b); 143-215.3(a)(1),(14); 150B-21.6; 153A-274; 153A-275; 160A-311; 160A-312.

15A NCAC 02H .0906 SUBMISSION FOR PROGRAM APPROVAL

(a) Except where in conflict with any part of this Section, the regulations regarding the contents of pretreatment programs

submitted for approval and the contents of a request to revise national categorical pretreatment standards, promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.9 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535.~~ Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3. In general, pretreatment program development submissions include a Sewer Use Ordinance (SUO) providing the legal authority for implementing the pretreatment program, an attorney's statement, a description of the POTW organization which will administer the pretreatment program, and a description of funding levels and full and part time staffing available to implement the pretreatment program in addition to those items listed in Paragraph (b) of this Rule.

(b) In addition to the contents of a POTW Control Authority pretreatment program submission described in Paragraph (a) of this Rule, the program submission shall contain:

- (1) A Sewer Use Ordinance (SUO) providing the legal authority for implementing the pretreatment program, along with an attorney's statement, as required by 40 CFR Part 403.8(f)(1) and Rule .0905 of this Section;
- ~~(1)(2)~~ (2) an Industrial Waste Survey (IWS), or industrial user survey, as required by 40 CFR Part 403.8 (f) (2) (i-iii) 403.8(f)(2)(i-iii) and 15A NCAC 2H .0905, Rule .0905 of this Section, including identification of all industrial users and the character and amount of pollutants contributed to the POTW collection system and/or treatment plant by these industrial users and identification of those industrial users meeting the definition of Significant Industrial User; User. Where the Control Authority accepts wastewater from one or more satellite POTWs, the IWS for that Control Authority shall address all satellite POTW Service Areas, unless the Pretreatment Program in those satellite service areas is administered by a separate Control Authority;
- ~~(2)(3)~~ (3) a Long Term Monitoring Plan (LTMP) to provide POTW site-specific data for the HWA and subsequent technical evaluations of local limits to satisfy the requirements of 40 CFR Part ~~122.21(j); 122.21(j).~~ Modified Pretreatment Programs developed under Rule .0904(b) of this Section may be allowed to implement a shorter term monitoring plan (STMP) as the Director determines to be necessary;
- ~~(3)(4)~~ (4) a Headworks Analysis (HWA) and supporting documentation, including POTW site-specific

- and relevant literature data, upon which to base industrial user-specific effluent limits and other local limits for prohibited pollutants (as defined in 40 CFR Parts 403.5(a) and (b) and ~~15A NCAC 2H .0909~~; Rule .0909 of the Section);
- (4)(5) a compliance monitoring program, including inspection, sampling, equipment, and other compliance procedures, which will implement the requirements of 40 CFR Parts 403.8(f) and 403.12, and ~~15A NCAC 2H Rules .0905 and .0908~~; .0908 of this Section;
- (5)(6) draft industrial user pretreatment permits for Significant Industrial Users as required by 40 CFR Parts 403.8(f)(1)(iii) and 403.9(b)(1)(ii) and Rule .0916 of this Section, and supporting documentation outlined in Rule .0917 of this Section;
- (6)(7) procedures for approving the construction of pretreatment facilities by industrial users and for permitting industrial users for construction, operation and discharge as required by G.S. 143-215.1; procedures for approving construction shall include issuance of authorization to construct, as appropriate;
- (7)(8) an Enforcement Response Plan (ERP) as required by 40 CFR Parts 403.8(f)(5) and 403.9(b)(1)(ii) for identifying violations of and enforcing specific local limits and other Pretreatment Requirements as required by and specified in 40 CFR Parts 403.5 and 403.6 and Rules .0909 and .0910 of this Section;
- (9) a brief description (including organization charts) of the Control Authority which will administer the Pretreatment Program. Where more than one POTW organization is involved in the POTW wastewater collections and/or treatment system, the description shall address all the agencies, including identification of which party will receive Industrial User applications for new or changed discharges and how the parties will communicate on Significant Industrial User determinations. At such time as a Significant Industrial User is identified in a satellite POTW organization's jurisdiction, the Director may require additional information, documents, and/or procedures as he/she determines necessary to ensure compliance with Pretreatment Program requirements, especially as needed to support appropriate communication between the POTW organizations as relates to the Pretreatment Program. This may include submittal of any formal interjurisdictional agreements or other written procedures;
- (10) a description of funding levels and full- and part-time manpower available to implement the Pretreatment Program;

- (8)(11) a description of data management procedures for compiling and managing compliance, ~~LTMP~~, LTMP/STMP, and any other pretreatment-related monitoring ~~data~~; data, including documentation of approval of electronic reporting procedures as required under 40 CFR Part 3 if applicable; and
- (9)(12) a request for pretreatment program approval as required by 40 CFR Part 403.9 and ~~Rule .0900~~ of this Section.

(c) ~~The POTW must submit three bound copies of the program containing the information in Paragraphs (a) and (b) of this Rule to the Division of Environmental Management.~~

Authority G.S. 143-215.1(a),(b); 143-215.3(a)(1),(14); 150B-21.6.

15A NCAC 02H .0907 PROCEDURES FOR PROGRAM APPROVAL, REVISION AND WITHDRAWAL

(a) Procedures for approval of a POTW Control Authority pretreatment program and for removal credit authorization are as follows:

- (1) Except where in conflict with any part of this Section, the approval procedures for POTW Control Authority pretreatment programs and applications for removal credit authorization promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.11 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at~~ <http://cfpub1.epa.gov/npdes/home.cfm?programid=3>.
- (2) Upon program approval, a POTW Control Authority is delegated, subject to the provisions of Rules .0916 and .0917 of this Section, the authority to issue the construction, operation and discharge permits required by G.S. 143-215.1(a) for those Significant Industrial Users discharging or proposing to discharge to the POTW.

(b) Either the Division or the POTW Control Authority may initiate program revisions. The POTW Control Authority ~~must~~ shall submit a request to the Division for approval of modifications to its approved pretreatment program, including, but not limited to its legal authority, or Sewer Use Ordinance (SUO), Headworks Analysis (HWA), Long or Short Term Monitoring Plan (~~LTMP~~), (LTMP/STMP), Enforcement

Response ~~Plan, Plan (ERP), summary of Industrial Waste Survey, Survey, (IWS) activities, revisions to the list of Significant Industrial Users (SIUs), and Division-approved forms, and procedures. forms.~~ Revisions to an approved pretreatment program shall be accomplished as follows:

- (1) the POTW Control Authority shall submit a modified program description, an attorney's statement if the legal authority of the program is being modified, and other documents as the Division Director determines to be necessary under the ~~circumstances; the circumstances.~~ The attorney's statement may consist merely of a verification that the North Carolina Model Pretreatment Sewer Use Ordinance is proposed for adoption by the Control Authority, if that is the case;
- (2) whenever the Division Director determines that the proposed program modifications are substantial, the Division shall issue public notice and provide an opportunity for public comment as described in ~~15A-NCAC 2H .0109 and .0110; public Rules .0109 and .0110 of this Subchapter.~~ Public notices issued by the Control Authority are deemed sufficient notice;
- (3) the Division Director or his/her delegate shall approve or disapprove program revisions based on the requirements of this Section, G.S. 143-215.1, G.S. 143-215.3 and the Water Quality Memorandum of Agreement between the Division and the EPA; and
- (4) a pretreatment program revision shall become effective upon written approval of the Division Director.

~~(c) Revision to the POTW's Significant Industrial Users (SIU) list shall be made using the procedure outlined in Paragraph (b) of this Rule. The SIU list may be revised at any time, provided sufficient documentation as required by the Division is supplied and supports such a determination. Requests for deletion of SIUs from the SIU list shall be accompanied by documentation which shows:~~

- ~~(1) the industrial user does not meet the criteria outlined in Subparagraph (b)(34) of Rule .0903 of this Section; or~~
- ~~(2) the industrial user meets the criteria outlined in Parts (b)(34)(A) or (B) of Rule .0903 of this Section and the wastewater treatment plant receiving the discharge has a significant available capacity for flow and all pollutants reasonably expected to be in the industrial user's discharge.~~

~~(d)(c) The Division Director may withdraw pretreatment program approval when a POTW Control Authority no longer complies with requirements of this Section and the POTW Control Authority fails to take corrective action. The following procedures apply when the Division Director determines that program withdrawal may be needed:~~

- (1) The Division Director shall give the POTW Control Authority 180 days notice of the program withdrawal;
- (2) the POTW Control Authority shall submit within 60 days of such notice a plan for the orderly transfer of all relevant program information not in the possession of the Division (such as permit files, compliance files, reports and permit applications) which is necessary for the Division to administer the pretreatment program;
- (3) within 60 days of the receipt of the POTW Control Authority transfer ~~plan plan,~~ the Division Director shall evaluate the POTW Control Authority plan and shall identify any additional information needed by the Division for program administration or identify any other deficiencies in the plan; and
- (4) at least 30 days before the program ~~withdrawal~~ withdrawal, the Division Director shall publish public notice of the program transfer and shall mail notice to all pretreatment permit holders of the POTW Control Authority.

~~(e)(d) Applications for removal credit authorization shall be made in accordance with procedures established by this Rule. Approval shall become effective upon written approval of the Division Director.~~

~~(f)(e) A pretreatment program is considered inactive when industrial users defined as Significant Industrial Users no longer discharge to the POTW Control Authority, based on modifications of the pretreatment program approved by the Division. Inactive approved pretreatment programs shall notify the Division when a Significant Industrial User proposes to discharge to the Control Authority. When required by the Division to return to active status, a POTW Control Authority may be required to update any or all of the requirements listed in Rule .0906 of this Section. The Control Authority shall obtain Division approval of the reactivation under this Rule prior to commencement of discharge of the Significant Industrial User.~~

~~(g)(f) The Division may require that representatives of Modified Pretreatment Programs developed under Paragraph (b) of Rule .0904-.0904(b) of this Section meet with Division personnel periodically to discuss implementation of and revisions to their Modified Pretreatment Program.~~

Authority G.S. 143-215(a); 143-215.1(a),(c); 143-215.3(a)(3),(14),(e); 150B-21.6.

15A NCAC 02H .0908 REPORTING/RECORD KEEPING REQUIREMENTS FOR POTWS/INDUSTRIAL USERS

(a) Except where in conflict with any part of this Section, the regulations regarding the reporting requirements for POTWs Control Authorities and industrial users promulgated by the Environmental Protection Agency and codified as 40 CFR ~~Part~~ Parts 403.8(g) and 403.12 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of~~

Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) POTWs Control Authorities with active approved pretreatment programs shall submit once per year a pretreatment report describing its pretreatment activities over the previous 12 months. Two copies of each pretreatment report shall be submitted to the Division according to one of the following schedules: ~~a report shall be submitted by September 1 of each year describing pretreatment activities for two six month periods, January 1 through June 30 of that year and July 1 to December 31 of the previous year; or a report shall be submitted by March 1 of each year for activities conducted for two six-month periods, January 1 through June 30 and July 1 through December 31 of the previous year. The POTW shall be notified by the Division as to which schedule to follow.~~ This annual report shall contain the following information in accordance with forms specified by the Division:

- (1) a narrative summary of actions taken by the permittee Control Authority to ensure compliance with pretreatment requirements;
- (2) a pretreatment program summary on forms or in a format approved by the Division;
- (3) a list of Significant Industrial Users in significant noncompliance with pretreatment requirements, the nature of the violations, and actions taken or proposed to correct the violations; on forms or in a format approved by the Division;
- (4) an allocation table listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads to the Division approved maximum allowable loadings of the POTW, on forms or in a format approved by the Division; and
- (5) other information which in the opinion of the Division Director is needed to determine compliance with the implementation of the pretreatment program, including, but not limited to, Significant Industrial User compliance schedules, public notice of Significant Industrial Users in significant noncompliance, a summary of Significant Industrial User effluent monitoring data as described in ~~Paragraph (f)~~ Paragraphs (a) and (e) of this Rule, a summary of information related to significant non-compliance determinations for Industrial Users that are not considered Significant Industrial Users, and Long or Short Term Monitoring Plan data on forms or in a format approved by the ~~Division;~~ Division.

(6) ~~a description of all POTW and Significant Industrial User waste reduction activities.~~

(c) In lieu of submitting annual reports as described in Paragraph (b) of this Rule, the Director may allow Modified Pretreatment Programs developed under Rule .0904(b) of this Section to submit a partial annual report, or to meet with Division personnel as required to discuss enforcement of pretreatment requirements and other pretreatment implementation issues.

~~(e)(d)~~ Inactive pretreatment programs are not required to submit the report described in Paragraph (b) of this Rule. Inactive approved pretreatment programs shall notify the Division when a Significant Industrial User proposes to discharge to the POTW. POTW and shall comply with Rule .0907 of this Section.

~~(d)(e)~~ Samples shall be collected and analyzed by the POTW staff Control Authority independent of the industry industrial user for each Significant Industrial User:

- (1) ~~for all permit limited parameters, except those listed in Paragraph (d)(2) of this Rule, a minimum of twice each year, once during each six-month period in Paragraph (b) of this Rule;~~
- (2) ~~for organic compounds limited in the Significant Industrial User permits, a minimum of once each year. If the POTW elects to sample and analyze in lieu of the industry, the POTW shall collect and analyze at a minimum samples as described in this Rule and, if applicable, in accordance with categorical standards. Independent monitoring of the industry by the POTW is not required for pollutants which are limited by a categorical standard for which specific certification or other alternative procedures apply, even if the industry chooses to monitor in addition to using certification or other alternative procedures.~~

(1) Except as specified below, a minimum of once each year for permit-limited organic compounds, and a minimum of twice each year for all other permit-limited parameters including flow. For the purposes of this paragraph, "organic compounds" means the types of compounds listed in 40 CFR Part 136.3(a), Tables IC, ID, and IF, as amended, and "twice each year" is defined as once during each six-month period as described in Paragraph (b) of this Rule.

(A) Independent monitoring of the industrial user is not required for pollutants which are limited by a categorical standards for which specific certification or other alternative procedures apply where the industrial user submits the required documentation for that certification or procedure, even if the industrial user chooses to monitor in addition to using certification or other alternative procedures;

(B) The minimum frequencies in this Subparagraph shall be reduced by half for all permit-limited parameters at a Significant Industrial User determined to fit the criteria under 40 CFR 403.12(e)(3) (Middle Tier CIU), [after 40 CFR Part 403.8(f)(2)(v)(C)]; and

(C) For categorical parameters with monitoring waived under 40 CFR Part 403.12(e)(2), a minimum of once during the term of the applicable Significant Industrial User Pretreatment Permit (40 CFR 403.8(f)(2)(v)(A)).

(2) If the Control Authority elects to sample and analyze in lieu of the industrial user, the Control Authority shall collect and analyze at a minimum samples as described in this Rule and, if applicable, in accordance with categorical standards.

~~(e) For the purpose of indicating the nature and concentration of the industries discharges in the baseline reports, deadline compliance reports and periodic compliance reports required in Paragraph (a) of this Rule the following shall apply:~~

- ~~(1) analyses shall be completed on all pollutants which are limited by the categorical standard unless the categorical standard contains specific certification or other alternative procedures for specific pollutants;~~
- ~~(2) compliance with a monthly average limitation shall be shown every six months by the analysis of a sufficient number of samples to be representative of the industry's monthly discharge.~~

~~(f) POTWs Control Authorities and Industrial Users shall retain for a minimum of three years records of monitoring activities and results along with support supporting information including annual pretreatment reports, general records, water quality records, and records of industrial impact on the POTW. Support information Other documents required by this Section (including supporting information) for other Pretreatment Program elements, such as pretreatment permits (IUPs), shall be retained for five years, three years after the end of the effective period of the document. A summary of all Significant Industrial User effluent monitoring data reported to the POTW Control Authority by the Industrial User or obtained by the POTW Control Authority shall be maintained on Division-approved forms or in a format approved by the Division for review by the Division. See also Rule .0805 of this Subchapter for laboratory records retention requirements.~~

~~(g) In lieu of submitting annual reports, Modified Pretreatment Programs developed under Paragraph (b) of Rule .0904 of this Section may be required to meet with Division personnel periodically to discuss enforcement of pretreatment requirements and other pretreatment implementation issues.~~

~~(h)(g) Forms or format deviating from Division-issued forms or format for all documents and supporting information required by this Section shall be submitted to the Division for approval and~~

shall contain all required information in a logical order or, if appropriate, in a computer-compatible format.

~~(h) In the case where the receiving POTW treatment plant is not owned by the same local governmental organization as the Control Authority, all information required to be reported to the Control Authority by this Section shall also be submitted to the POTW treatment plant government organization.~~

~~(i) In the case where the Control Authority accepts electronic reporting, the reporting shall comply with 40 CFR Part 3, and the Control Authority shall maintain documentation of approval as required under 40 CFR Part 3.~~

Authority G.S. 143-215.1(a),(b); 143-215.2; 143-215.3(a)(2),(14); 143-215.6(a)(1); 143-215.63 through 143-215.69; 150B-21.6.

15A NCAC 02H .0909 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES

The regulations regarding national prohibited pretreatment standards and local limits development and enforcement promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.5 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Arehdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626 0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(1),(14); 150B-21.6.

15A NCAC 02H .0910 NATIONAL PRETREATMENT STANDARDS: CATEGORICAL STANDARDS

The regulations regarding national categorical pretreatment standards promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.6 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Arehdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626 0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(14); 150B-21.6.

15A NCAC 02H .0912 ADJUSTMENTS FOR FUNDAMENTALLY DIFFERENT FACTORS

The regulations regarding variances from national categorical pretreatment standards for fundamentally different factors

promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.13 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

Authority G.S. 143-215(a); 143-215.1(a),(b); 143-215.3(a),(14),(e); 150B-21.6.

15A NCAC 02H .0913 PUBLIC ACCESS TO INFORMATION

(a) Information and data provided by an industrial user to the POTW Director pursuant to this Section, identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted ~~or which may be furnished~~ by an industrial user to the POTW ~~director~~ Director in connection with any required ~~periodic~~ reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the POTW ~~director~~ Director that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information and data provided by an industrial user to the Division Director shall be subject to the processes set forth in G.S. 143-215.3C.

(c) Information provided by an industrial user to a Control Authority that is determined to be entitled to confidential treatment shall be made available upon written request to the Division or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge Permit, and/or for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(d) Information and data made available to the Division or other state agency under Paragraph (c) of this Rule shall be subject to the processes set forth in G.S. 143-215.3C.

Authority G.S. 132-1.2; 132-6; 132-9; 143-215.1; 143-215.3; 143-215.3C.

15A NCAC 02H .0914 UPSET PROVISION

The upset provision promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.16 is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US~~

~~Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6.

15A NCAC 02H .0915 NET/GROSS CALCULATION

The net/gross calculation provisions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.15 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6.

15A NCAC 02H .0916 PERMITS

(a) All Significant Industrial Users who discharge waste into a POTW or who construct or operate a pretreatment facility ~~must~~ shall obtain a permit from the Control Authority.

(b) Where the Division is the Control ~~Authority~~ Authority, permits shall be issued in accordance with Section .0100 of this Subchapter.

(c) Where ~~the POTW is the Control Authority~~, Authority is a POTW organization, Significant Industrial User permits shall be issued as follows:

- (1) Application: any Significant Industrial User required to obtain a permit in Paragraph (a) of this Rule shall be required to complete, sign and submit to the Control Authority a permit application. Application fees and procedures may be prescribed by the Control Authority. All pretreatment permit applications shall include as a minimum:
 - (A) name of ~~industry~~; Industrial User;
 - (B) address of ~~industry~~; Industrial User;
 - (C) standard industrial classification (SIC) code(s) or expected classification and ~~industry~~ Industrial User category;
 - (D) wastewater flow;
 - (E) types and concentrations (or mass) of pollutants contained in the discharge;
 - (F) major products manufactured or services supplied;
 - (G) description of existing on-site pretreatment facilities and practices;
 - (H) locations of discharge points;
 - (I) raw materials used or stored at the site;

- (J) flow diagram or sewer map for the ~~industry;~~ Industrial User;
 - (K) number of employees;
 - (L) operation and production schedules; and
 - (M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
- (2) Renewals: Applications for pretreatment permit renewals shall be accomplished by filing an appropriate application form as listed in ~~.0916 Subparagraph~~ (c)(1) of this Rule prior to permit expiration. The number of days prior to expiration by which the application ~~must~~ shall be filed shall be established by the Control Authority.
- (3) Review and Evaluation:
- (A) The POTW Director is authorized to accept applications for the Commission and shall refer all applications to the POTW Control Authority staff for review and evaluation.
 - (B) The POTW Director shall acknowledge receipt of a complete application, or if not complete, shall return the application to the applicant with a statement of what additional information is required.
 - (C) The POTW Control Authority staff shall include ~~as part of the permit record~~ documentation of an on site inspection of the industrial facility user and any existing wastewater pretreatment ~~system;~~ system as part of the permit record for new and renewed permits. Such inspection shall have been conducted a maximum of 12 months prior to the issue date of the pretreatment permit.
 - (D) The POTW Control Authority staff shall conduct an evaluation and make a tentative determination to issue or deny the permit. If the POTW Control Authority staff's tentative determination is to issue the permit, it shall make the following additional determinations in writing and transmit them to the ~~permittee;~~ Industrial User:
 - (i) proposed effluent limitations for those pollutants proposed to be limited;
 - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations; and
- (iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- The POTW Control Authority staff shall organize the determinations made into a pretreatment permit.
- (4) ~~Permit synopsis and allocation table: A brief synopsis of the application and permit shall be prepared by the POTW staff for all Significant Industrial User permits. This synopsis shall be maintained in the POTW files in accordance with Rule .0908(f) of this Section. The synopsis and allocation table shall be sent to the Division along with the pretreatment permit if required in Rule .0917 of this Section. An allocation table listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted loads with Division approved maximum allowable loadings of the POTW, shall be prepared on forms or in a format approved by the Division and updated as permits are issued, modified, or renewed. Forms or format deviating from Division issued forms or format shall be submitted to the Division for approval and shall contain all required information in a logical order or, if appropriate, in a computer-compatible format. The contents of the synopsis shall include at least the following information:~~
- (A) ~~a copy of the completed industrial user application or a quantitative description of the discharge described in the application which includes at least the following:~~
 - (i) ~~the rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;~~
 - (ii) ~~the average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition.~~
 - (B) ~~the basis, or rationale, for the pretreatment limitations including the documentation of any calculations used in applying categorical pretreatment standards; and~~
 - (C) ~~a copy of the record of the inspection of the industrial user required in Part (e)(3)(C) of this Rule.~~

(4) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.

(A) An allocation table (AT) listing permit information for all significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division and updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.

(B) The basis, or rationale, for the pretreatment limitations, including documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards and documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(c)(2).

(5) Hearings:

(A) Adjudicatory Hearings. An applicant whose permit is denied, terminated, or is granted subject to conditions he/she deems unacceptable, shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following notice of the final decision to deny or grant the permit. Unless such written demand is made, the decision on the application shall be final and binding, subject to the provisions of Rule .0917 of this Section, and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The POTW Director or other hearing officer, as appropriate, shall make a decision on the contested permit within the time period specified in the Control Authority's Sewer Use Ordinance. The POTW Director shall transmit a copy of the hearing officer's decision to the petitioner by registered or certified mail. If no

~~further administrative appeal is provided by the governing body of the Control Authority under Part (c)(5)(B) of this Rule then the decision is a final decision for the purposes of seeking judicial review. An Official Record of the adjudicatory hearing must be prepared as described in Part (c)(5)(C) of this Rule.~~

~~(i) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~

~~(ii) Renewed or Modified Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed or modified permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~

~~(iii) Terminated Permits. Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~

(B) Optional Appeal Hearings. If so provided by the governing body of the Control Authority, any decision of a hearing officer or POTW Director made as a result of an adjudicatory hearing held under Part (c)(5)(A) of this Rule may be appealed, to the governing body of the Control Authority or other unbiased entity designated by the governing body of the Control Authority upon filing a written demand within ten days of receipt of notice of the decision. Failure to make written demand

~~within the time specified herein shall bar further appeal. The governing body of the Control Authority or other unbiased entity, as appropriate, shall make a final decision on the appeal within the time period specified in the Control Authority's Sewer Use Ordinance. The governing body of the Control Authority or its designee shall transmit a written copy of its decision by registered or certified mail to the petitioner. This decision is a final decision for the purposes of seeking judicial review. An Official Record of the hearing must be prepared as described in Part (c)(5)(C) of this Rule.~~

~~(C) Official Record. When a final decision for the purposes of judicial review is issued under Subparagraph (c)(5) of this Rule, the hearing officer shall prepare an official record of the case that includes:~~

- ~~(i) All notices, motions, and other like pleadings;~~
- ~~(ii) A copy of all documentary evidence introduced;~~
- ~~(iii) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;~~
- ~~(iv) A copy of the final decision of the hearing officer.~~

~~(D) Judicial Review. Any person against whom a final decision of the hearing officer or POTW Director is entered, pursuant to the hearing(s) conducted under Subparagraph (c)(5) of this Rule, may seek judicial review of the decision, by filing a written petition within 30 days after receipt of notice by registered or certified mail of the final decision, but not thereafter, with the Superior Court of the appropriate county along with a copy to the Control Authority. Within 30 days after receipt of the copy of the petition of judicial review, the final decision maker shall transmit to the reviewing court the original or a certified copy of the official record.~~

~~(6)(5) Final Action on Permit Applications:~~

~~(A) The POTW Director shall take final action on all applications by either issuing a pretreatment permit or by denying the discharge not later than~~

90 days following the receipt of a complete application. If, following the 30 day period required by ~~Part (c)(5)(A) of this Rule and Rule .0917(e) Rules .0917(d) and .0922~~ of this Section, no written demand for hearing, objection, or request for more information under Rule .0917(f)(2) of this Section has been made, the permit shall become final and binding.

- ~~(B) The POTW Director is authorized to:~~
 - ~~(i) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143-215.1;~~
 - ~~(ii) issue a permit containing time schedules for achieving compliance with applicable pretreatment standards and limitations and other legally applicable requirements;~~
 - ~~(iii) modify or revoke any permit pursuant to Subparagraph (c)(7) (c)(6) of this Rule;~~
 - ~~(iv) deny a permit application;~~
 - ~~(v) issue permits to industrial users not identified as Significant Industrial Users using procedures prescribed by the Control Authority; and~~
 - ~~(vi) require Significant Industrial Users to develop a waste reduction plan and implement waste reduction techniques and technologies.~~

~~(C) Permits shall be issued or renewed for a period of time deemed reasonable by the POTW Director but in no case shall the period exceed five years.~~

~~(D) The POTW Director shall notify an applicant by certified or registered mail of the denial of his/her permit application. Notifications of denial shall specify the reasons therefore and the proposed changes which in the opinion of the POTW Director will be required to obtain the permit.~~

~~(7)(6) Modification and Revocation of Permits:~~

~~(A) Any permit issued pursuant to this Rule is subject to revocation or modification in whole or part for good cause as outlined in the Control Authority's sewer use ordinance. Sewer Use Ordinance.~~

~~(B) Modifications of permits shall be subject to the same procedural~~

requirements as the issuance of permits except as follows:

- (i) changes in the ownership of the discharge when no other change in the permit is indicated;
- (ii) a single modification of any compliance schedule not in excess of four months;
- (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational; or
- (iv) modifications of the monitoring requirements in the permit.

~~(C) Permit effective dates and modification dates shall not be retroactive.~~

(7) Permit effective dates and modification effective dates shall not be retroactive.

Authority G.S. 143-215(a); 143-215.1(a), (c), (g); 143-215.3(a)(3),(14)(e).

15A NCAC 02H .0917 PRETREATMENT PERMIT SUBMISSION AND REVIEW

(a) Upon issuance, each ~~POTW~~ Control Authority shall transmit to the Division copies of all issued Significant Industrial User pretreatment permits.

~~(b) For new Significant Industrial Users and for Significant Industrial Users identified as categorical industrial users, upon issuance, the POTW shall transmit to the Division:~~

- ~~(1) Notice of actions taken by the POTW to the consideration of any permit application including a copy of each pretreatment permit and any conditions, requirements or documents which are related to the pretreatment permit;~~
- ~~(2) A synopsis of the permit and an allocation table for the POTW receiving the discharge(s).~~

(b) Permits and permit renewal submissions to the Division for Significant Industrial Users shall include the supporting information listed below. Permit modification submissions for Significant Industrial Users shall include updated versions of the supporting information listed below as applicable to that modification:

- (1) the rationale for limits and allocation table required by Rule .0916(c)(4) of this Section;
- (2) a copy of the completed industrial user application required in Rule .0916(c)(1) of this Section; and
- (3) a copy of the record of the inspection of the industrial user required in Rule .0916(c)(3)(C) of this Section.

(c) The Division Director may waive some or all of the requirements in Paragraphs (a) and (b) of this Rule. In making the decision to waive these requirements, the Division Director may consider factors including but not limited to training levels of Control Authority staff, quality of previous pretreatment permit submissions, percent maximum allowable headworks loading capacity remaining, percent industrial user flow, industrial user waste characteristics, and compliance status of the POTW and its respective environmental permits.

~~(e)(d)~~ The Division shall have 30 days from the receipt of pretreatment permits in which to make general comments upon, objections to or recommendations with respect to the permit. Unless such an objection or request for more information in accordance with Paragraph ~~(f)(g)~~ of this Rule is made, the permit shall be final and binding.

~~(e)(e)~~ Within 30 days of the receipt of a pretreatment permit to which the Division Director has objected the Division staff shall set forth in writing and transmit to the Control Authority:

- (1) A statement of the reasons for the objection, including the regulations that support the ~~objection and; objection; and~~
- (2) The actions which ~~must shall~~ be taken by the Control Authority to eliminate the objection including the effluent limitations and conditions which the permit would include if it were issued by the Division.

~~(e)(f)~~ The Division Director's objection to the issuance of a pretreatment permit ~~must shall~~ be based upon one or more of the following grounds:

- (1) the permit fails to apply or to ensure compliance with any applicable requirement of this Section;
- (2) the procedures followed in connection with formulation of the pretreatment permit failed to comply with the procedures required by State Statute or by the ~~POTW's~~ Control Authority's approved pretreatment program;
- (3) a finding made by the Control Authority in connection with the pretreatment permit which misinterprets any categorical pretreatment standard or pretreatment regulation or misapplies them to the facts;
- (4) the provisions of the pretreatment permit relating to the maintenance of records, monitoring or sampling by the ~~permittee~~ Control Authority and industrial user are, in the judgment of the Division Director, inadequate to assure compliance with permit conditions or applicable pretreatment standards.

~~(f)(g)~~ Prior to notifying the POTW Control Authority of an ~~objection~~ objection, the Division Director:

- (1) shall consider all data transmitted pursuant to Rule .0916 of this Section;
- (2) may, if more information is needed to determine whether the permit is adequate, request the ~~POTW~~ Control Authority to make available to the Division staff the complete record of permit proceedings, or any portions

of the record that the Division Director determines are necessary for review. Requests ~~must shall~~ be made within 30 days of the ~~state's-Division's~~ receipt of the permit under Rule.0916 of this Section, and shall suspend the 30 day review period in Paragraph (e)(d) of this Rule. When the Division staff has obtained the requested records or portions of the record, the Division staff shall have an additional 30 days for review; and

- (3) may, to the extent feasible within the period of time available, afford interested persons the opportunity to comment on the basis for the objection.

~~(g)(h)~~ If within 60 days of the receipt of the Division Director's objection the POTW Control Authority does not resubmit a permit revised to meet the Division Director's objection, the Division Director may issue the permit in accordance with ~~45A NCAC 2H .0100. Section .0100 of this Subchapter.~~ Exclusive authority to issue the permit required by G.S. 143-215.1(a) passes to the Division when this time expires.

Authority G.S. 143-215(a); 143-215.1(a)(c); 143-215.3(a)(3),(14)(e).

15A NCAC 02H .0919 BYPASS

The regulations regarding the bypass provisions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.17 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

Authority G.S. 143-215.1(a)(1); 143-215.3(a)(14); 150B-21.6.

15A NCAC 02H .0920 PRETREATMENT FACILITY OPERATION AND MAINTENANCE

(a) Upon classification of pretreatment facilities permitted under this Section and upon development of specific certification and training programs for operators of classified facilities, the permittee industrial user ~~must shall~~ designate an Operator in Responsible Charge and a back-up operator as required by the Water Pollution Control System Operators Certification Commission as established in ~~45A NCAC 8A .0202. Subchapter 08G of these Rules. Copies of this Rule are available from the Division of Environmental Management, Water Quality Section, Archdale Building, 512 N. Salisbury Street, P. O. Box 29535, Raleigh, North Carolina 27626-0535 at no charge.~~

(b) In order to insure the proper operation and maintenance of facilities permitted under this Section and classified under the Rules of the Water Pollution Control System Operators Certification Commission (~~45A NCAC 8~~), (Subchapter 08G of

these Rules), the Operator in Responsible Charge, or a back-up operator when appropriate, ~~must shall~~ operate and visit the facility as required by the Water Pollution Control System Operators Certification Commission as established in ~~45A NCAC 8A .0202. Subchapter 08G of these Rules. Copies of these Rules are available from the Division of Environmental Management, Water Quality Section, Archdale Building, 512 N. Salisbury Street, P. O. Box 29535, Raleigh, North Carolina 27626-0535 at no charge.~~

(c) Copies of rules referenced in this Rule are available at the following locations:

- (1) <http://portal.ncdenr.org/web/wq/admin/tacu;>
and
- (2) North Carolina Department of Environment and Natural Resources, Division of Water Quality, Offices of the Technical Assistance and Certification Unit (TACU)
Physical address: 219 North East Street, Raleigh, NC 27601
Mailing address: 1618 Mail Service Center, Raleigh, NC 27699-1618

Authority G.S. 143-215.3.

15A NCAC 02H .0921 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT

The regulations regarding removal credits promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.7 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

Authority G.S. 143-215.1(a),(b); 143-215.3(a)(14); 150B-21.6.

15A NCAC 02H .0922 HEARINGS

(a) Adjudicatory Hearings. An Industrial User applicant whose permit is denied, terminated, or is granted subject to conditions he/she deems unacceptable, an Industrial User assessed a civil penalty under the Control Authority's Sewer Use Ordinance, or an Industrial User issued an administrative order under the Control Authority's Sewer Use Ordinance shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following notice of the final decision to deny or grant the permit, civil penalty assessment, or administrative order. Unless such written demand is made, the action shall be final and binding, subject to the provisions of Rule .0917 of this Section if applicable, and further appeal is barred. For modified permits, only those parts

of the permit being modified may be adjudicated. The POTW Director or other hearing officer, as appropriate, shall make a decision on the contested action within the time period specified in the Control Authority's Sewer Use Ordinance but in no case shall the decision be made more than 90 days from receipt of the demand, including the time for any decision under Paragraph (b) of this Rule. The POTW Director shall transmit a copy of the hearing officer's decision to the petitioner by registered or certified mail. If no further administrative appeal is provided by the governing body of the Control Authority under Paragraph (b) of this Rule then the decision is a final decision for the purposes of seeking judicial review. An Official Record of the adjudicatory hearing shall be prepared as described in Paragraph (c) of this Rule.

- (1) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) Renewed or Modified Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed or modified permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (3) Terminated Permits. Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) Optional Appeal Hearings. If so provided by the governing body of the Control Authority, any decision of a hearing officer or POTW Director made as a result of an adjudicatory hearing held under Paragraph (a) of this Rule may be appealed, to the governing body of the Control Authority or other unbiased entity designated by the governing body of the Control Authority upon filing a written demand within ten days of receipt of notice of the decision. Failure to make written demand within the time specified herein shall bar further appeal. The governing body of the Control Authority or other unbiased entity, as appropriate, shall make a final decision on the appeal within the time period specified in the Control Authority's Sewer Use Ordinance. The governing body of the Control Authority or its designee shall transmit a written copy of its decision by registered or certified mail to the petitioner. This decision is a final decision for the purposes of seeking judicial review. An Official Record of the hearing shall be prepared as described in Paragraph (c) of this Rule.

(c) Official Record. When a final decision for the purposes of judicial review is issued under Paragraph (a) or (b) of this Rule, the hearing officer shall prepare an official record of the case that includes:

- (1) All notices, motions, and other like pleadings;

- (2) A copy of all documentary evidence introduced;
- (3) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken; and
- (4) A copy of the final decision of the hearing officer.

(d) Judicial Review. Any person against whom a final decision of the hearing officer or POTW Director is entered, pursuant to the hearing(s) conducted under Paragraph (a) or (b) of this Rule, may seek judicial review of the decision, by filing a written request for review by the superior court pursuant to Article 27 of Chapter 1 of the General Statutes within 30 days after receipt of notice by registered or certified mail of the final decision, but not thereafter, with the Superior Court of the appropriate county along with a copy to the Control Authority. Within 30 days after receipt of the copy of the request for judicial review, the final decision maker shall transmit to the reviewing court the original or a certified copy of the official record.

Authority G.S. 143-215(a); 143-215.1(a), (c), (g); 143-215.3(a)(3),(14)(e); 143-215.6A(j) and (k); 143-215.2(b).

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Dental Examiners intends to amend the rule cited as 21 NCAC 16F .0103.

Proposed Effective Date: *October 1, 2010*

Public Hearing:

Date: *June 17, 2010*

Time: *7:00 p.m.*

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

Reason for Proposed Action: *The amendment clarifies that a dental corporation or limited liability company may include in its name the words "associates" "D.D.S." or "D.M.D" and the geographic location of the company, provided that the company name may not be false, deceptive or misleading.*

Procedure by which a person can object to the agency on a proposed rule: *Interested persons may submit written comments or objections to the NC State Board of Dental Examiners, c/o Bobby D. White, Chief Operations Officer, 507 Airport Blvd, Suite 105, Morrisville, NC 27560*

Comments may be submitted to: *Bobby D. White, 507 Airport Blvd, Suite 105, Morrisville, NC 27560*

Comment period ends: *August 2, 2010*

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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
Substantial Economic Impact (>=\$3,000,000)
None

SUBCHAPTER 16F - PROFESSIONAL CORPORATIONS

SECTION .0100 - SCOPE

21 NCAC 16F .0103 CORPORATE OR LIMITED LIABILITY COMPANY NAME

Corporation or limited liability company designations shall consist only of the use of the words "Professional Association," "P.A.," "Professional Corporation," or "P.C." for professional corporations and "Professional Limited Liability Company", or "P.L.L.C." for professional limited liability companies. All names shall also contain only the name or surname of one or more of the shareholders or members and may include the word "Associate(s)." the words "Associate(s)", "D.D.S.", "D.M.D." and the geographic location of the company, provided that the company name may not be false, deceptive or misleading.

Authority G.S. 55B-5; 57C-2-01; 57C-2-30; 90-48.

CHAPTER 32 - NORTH CAROLINA MEDICAL BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the North Carolina Medical Board intends to amend the rules cited as 21 NCAC 32S .0216 and .0219 and adopt the rule cited as 21 NCAC 32S .0220.

Proposed Effective Date: October 1, 2010

Public Hearing:

Date: August 2, 2010

Time: 10:00 a.m.

Location: North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609

Reason for Proposed Action: The proposed rules adoption and amendments are to establish an expedited application process for physician assistants, to provide guidelines for issuing a limited physician assistant license in the event of a disaster or emergency and to allow for current certification with the National Commission on Certification of Physician Assistants to be acceptable for CME requirements.

Procedure by which a person can object to the agency on a proposed rule: A person may submit objections to the proposed amendments, in writing by August 2, 2010, to the Rules Coordinator, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609 or email rules@ncmedboard.org using "PA Rules" on the subject line.

Comments may be submitted to: Rules Coordinator, North Carolina Medical Board, 1203 Front Street, Raleigh, NC 27609; phone (919) 326-1100; fax (919) 326-0036; email rules@ncmedboard.org

Comment period ends: August 2, 2010

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 after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule 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
Substantial Economic Impact (>=\$3,000,000)
None

SUBCHAPTER 32S - PHYSICIAN ASSISTANTS

SECTION .0200 - PHYSICIAN ASSISTANT REGISTRATION

21 NCAC 32S .0216 CONTINUING MEDICAL EDUCATION

(a) A physician assistant must complete at least 100 hours of continuing medical education (CME) every two years, at least 40 hours of which must be American Academy of Physician Assistants Category I CME. CME documentation must be available for inspection by the board or its agent upon request. The two year period shall run from the physician assistant's

birthday, beginning in the year 1999, or the first birthday following initial licensure, whichever occurs later.

(b) A physician assistant who possesses a current certification with the National Commission on Certification of Physician Assistants (NCCPA) will be deemed in compliance with the requirement of Paragraph (a) of this Rule. The physician assistant must attest on his or her annual renewal that he or she is currently certified by the NCCPA.

Authority G.S. 90-9.3; 90-18(c)(13); 90-18.1.

21 NCAC 32S .0219 LIMITED PHYSICIAN ASSISTANT LICENSE FOR DISASTERS AND EMERGENCIES

~~A physician assistant licensed in this State or in any other state may perform acts, tasks, or functions as a physician assistant under the supervision of a physician licensed to practice medicine in North Carolina during a disaster within a county in which a state of disaster has been declared or counties contiguous to a county in which a state of disaster has been declared (in accordance with G.S.166A-6). A team of physician(s) and physician assistant(s) practicing pursuant to this Rule is not required to maintain on site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by 21 NCAC 32S .0212. The Board may waive other regulatory requirements regarding licensure and practice to facilitate a physician assistant practicing during a disaster consistent with G.S. 90-12.5.~~

(a) The Board may, pursuant to G.S. 90-12.5, issue a limited physician assistant license under the following conditions:

- (1) the Governor of the State of North Carolina has declared a disaster or state of emergency, or in the event of an occurrence for which a county or municipality has enacted an ordinance to deal with states of emergency under G.S. 14-288.12, 14-288.13, or 14-288.14, or to protect the public health, safety or welfare of its citizens under Article 22 of Chapter 130A of the General Statutes, G.S. 160A-174(a) or G.S. 153A-121(a);
- (2) the applicant provides government-issued photo identification;
- (3) the applicant provides proof of licensure, certification or authorization to practice as a physician assistant in another state, the District of Columbia, US Territory or Canadian province;
- (4) applicant affirms under oath that such license is in good standing;

(b) The Board may limit the physician assistant's scope of practice including, but not limited to, the following: geography; term; type of practice; prescribing, administering and dispensing therapeutic measures, tests, procedures and drugs; supervision and practice setting.

(c) The physician assistant must practice under the direct supervision of an on-site physician. The supervising physician must be licensed in this State or approved to practice in this State during a disaster or state of emergency pursuant to G.S. 90-12.5 and 21 NCAC 32B .1705. The physician assistant may only

perform those medical acts, tasks, and functions delegated by the supervising physician.

(d) A team of physician(s) and physician assistant(s) practicing pursuant to this Rule is not required to maintain on-site documentation describing supervisory arrangements and instructions for prescriptive authority as otherwise required by 21 NCAC 32S .0213.

(e) A physician assistant holding a Limited Physician Assistant License for Disasters and Emergencies shall not receive any compensation, either direct or indirect, monetary, in-kind, or otherwise for the provision of medical services.

Authority G.S. 90-9.3; 90-12.5; 90-18(c)(13); 166A-6.

21 NCAC 32S .0220 EXPEDITED APPLICATION FOR PHYSICIAN ASSISTANT LICENSURE

(a) An experienced physician assistant who has been licensed, certified, or authorized to practice in at least one other state, the District of Columbia, United States Territory or Canadian province for at least five years, has been in active clinical practice during the past two years and who has a clean license application, as defined in Paragraph (c) of this Rule, may apply for a license on an expedited basis.

(b) In order to apply for an expedited Physician Assistant License, an applicant shall:

- (1) submit a completed application, using the Board's form, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit documentation of a legal name change, if applicable;
- (3) on the Board's form, submit a recent photograph, at least two inches by two inches, certified as a true likeness of the applicant by a notary public;
- (4) supply a certified copy of applicant's birth certificate or a certified copy of a valid and unexpired United States passport, if applicant was born in the United States; if the applicant was not born in the United States, the applicant must provide information about applicant's immigration and work status, which the Board will use to verify applicant's ability to work lawfully in the United States. Applicants who are not present in the United States and who do not plan to practice physically in the United States shall submit a statement to that effect;
- (5) provide proof that applicant had held an active license, certification or authorization as a physician assistant in at least on other state or jurisdiction for at least the last five years immediately preceding this application;
- (6) submit proof of successful completion of the Physician Assistant National Certifying Examination;

PROPOSED RULES

- (7) submit proof of current certification by the National Commission on Certification of Physician Assistants;
 - (8) provide proof of an active clinical practice, providing patient care for an average of 20 hours or more per week, for at least the last two years;
 - (9) submit a NPDB/HIPDB report dated within 60 days of applicant's oath;
 - (10) submit a FSMB Board Action Data Bank report;
 - (11) submit two completed fingerprint cards supplied by the Board;
 - (12) submit a signed consent form allowing a search of local, state, and national files to disclose any criminal record;
 - (13) pay to the Board a non-refundable fee of two hundred dollars (\$200.00), plus the cost of a criminal background check;
 - (14) upon request, supply any additional information the Board deems necessary to evaluate the applicant's qualifications.
- (c) A clean license application means that the physician assistant has none of the following:
- (1) professional liability insurance claim(s) or payment(s);
 - (2) criminal record;
 - (3) medical condition(s) which could affect the physician assistant's ability to practice safely;
 - (4) regulatory board complaint(s), investigation(s), or action(s) (including applicant's withdrawal of a license application);
 - (5) adverse action taken by a health care institution;
 - (6) investigation(s) or action(s) taken by a federal agency, the United States military, medical societies or associations; or
 - (7) suspension or expulsion from any school, including an educational program for physician assistants.
- (d) All reports must be submitted directly to the Board from the primary source, when possible.
- (e) An application must be completed within one year of the date on which the application fee is paid. If not, the applicant shall be charged a new application fee.

Authority G.S. 90-9.3; 90-13.1.

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 15, 2010.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

PESTICIDE BOARD

Certification/Recertification Fee 02 NCAC 09L .1111 24:08 NCR

BANKS, OFFICE OF THE COMMISSIONER OF

Notices 04 NCAC 03M .0102* 24:09 NCR

Application 04 NCAC 03M .0201* 24:09 NCR

Nontransferability 04 NCAC 03M .0202* 24:09 NCR

Experience 04 NCAC 03M .0204* 24:09 NCR

Surety Bond 04 NCAC 03M .0206* 24:09 NCR

Loan Officer Examination 04 NCAC 03M .0302 24:09 NCR

Requirements for Providers 04 NCAC 03M .0303 24:09 NCR

Amendments to Information on File With the Commissioner 04 NCAC 03M .0402* 24:09 NCR

Termination of Operations 04 NCAC 03M .0403* 24:09 NCR

Records to be Maintained 04 NCAC 03M .0501* 24:09 NCR

Form and Location of Records 04 NCAC 03M .0502* 24:09 NCR

Transfer of Servicing Rights 04 NCAC 03M .0701* 24:09 NCR

Requirements for Mortgage Services to Communicate Effecti... 04 NCAC 03M .0702* 24:09 NCR

Cessation of Foreclosure Activity During Pendency of Loss... 04 NCAC 03M .0703* 24:09 NCR

HHS - MEDICAL ASSISTANCE, DIVISION OF

Pharmacy Services 10A NCAC 22O .0118* 24:10 NCR

SOCIAL SERVICES COMMISSION

Client Records 10A NCAC 70G .0506 24:14 NCR

PRIVATE PROTECTIVE SERVICES BOARD

Private Investigator's Use of a Badge 12 NCAC 07D .0405* 24:05 NCR

Fees for Unarmed Security Guard Registration 12 NCAC 07D .0702* 24:10 NCR

ALARM SYSTEMS LICENSING BOARD

Fees for Registration 12 NCAC 11 .0302* 24:12 NCR

ENVIRONMENTAL MANAGEMENT COMMISSION

Randleman Lake Water Supply Watershed: Nutrient Managemen... 15A NCAC 02B .0248 24:08 NCR

SEDIMENTATION CONTROL COMMISSION

Self-Inspections 15A NCAC 04B .0131* 24:12 NCR

COASTAL RESOURCES COMMISSION

General Conditions 15A NCAC 07H .1704* 24:05 NCR

Specific Conditions 15A NCAC 07H .1705* 24:05 NCR

Approval Procedures 15A NCAC 07H .2302* 24:10 NCR

Permit Fee 15A NCAC 07H .2303 24:10 NCR

General Conditions 15A NCAC 07H .2304* 24:10 NCR

Specific Conditions 15A NCAC 07H .2305* 24:10 NCR

WILDLIFE RESOURCES COMMISSION

Importation of Wild Animals and Birds 15A NCAC 10B .0101* 24:09 NCR

Importation of Wild Animals and Birds 15A NCAC 10B .0101* 24:10 NCR

Wildlife Taken for Depredations or Accidentally 15A NCAC 10B .0106* 24:10 NCR

Big Game Kill Reports 15A NCAC 10B .0113 24:10 NCR

Wild Birds Defined 15A NCAC 10B .0121 24:10 NCR

State Hunting License Exemptions 15A NCAC 10B .0126* 24:10 NCR

Bear 15A NCAC 10B .0202 24:10 NCR

Squirrels 15A NCAC 10B .0206* 24:10 NCR

Armadillo 15A NCAC 10B .0222* 24:10 NCR

Open Seasons 15A NCAC 10B .0302* 24:10 NCR

Tagging Furs 15A NCAC 10B .0402* 24:10 NCR

Trappers and Hunters 15A NCAC 10B .0404* 24:10 NCR

Fur Dealers 15A NCAC 10B .0405* 24:10 NCR

Misuse of Tags 15A NCAC 10B .0406* 24:10 NCR

Public Mountain Trout Waters 15A NCAC 10C .0205* 24:10 NCR

Open Seasons: Creel and Size Limits 15A NCAC 10C .0305* 24:10 NCR

Manner of Taking Non-game Fishes: Purchase and Sale 15A NCAC 10C .0401* 24:10 NCR

Taking Non-game Fishes for Bait or Personal Consumption 15A NCAC 10C .0402* 24:10 NCR

General Regulations Regarding Use 15A NCAC 10D .0102* 24:10 NCR

Hunting On Game Lands 15A NCAC 10D .0103* 24:10 NCR

Fishing on Game Lands 15A NCAC 10D .0104* 24:10 NCR

Definition 15A NCAC 10E .0101* 24:10 NCR

Regulations Posted 15A NCAC 10E .0102* 24:10 NCR

Use of Areas Regulated 15A NCAC 10E .0104* 24:10 NCR

Alexander County 15A NCAC 10F .0332* 24:12 NCR

McDowell County 15A NCAC 10F .0339* 24:12 NCR

License to Operate 15A NCAC 10H .0101* 24:10 NCR

Quality of Birds Released 15A NCAC 10H .0104* 24:10 NCR

General Requirements 15A NCAC 10H .0301* 24:09 NCR

Minimum Standards 15A NCAC 10H .0302* 24:09 NCR

Captive Cervid Herd Certification Program 15A NCAC 10H .0304* 24:09 NCR

Disposition of Birds or Eggs 15A NCAC 10H .0904* 24:10 NCR

General Regulations Regarding Use of Conservation Areas 15A NCAC 10J .0102* 24:10 NCR

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Definitions</u>	15A NCAC	12A	.0105*	24:10 NCR
<u>Permits</u>	15A NCAC	12B	.0104*	24:10 NCR
<u>Metal Detectors Prohibited</u>	15A NCAC	12B	.0203*	24:10 NCR
<u>Rock or Cliff Climbing and Rappelling</u>	15A NCAC	12B	.0204*	24:10 NCR
<u>Vehicles; Where Prohibited</u>	15A NCAC	12B	.0501*	24:10 NCR
<u>Parking</u>	15A NCAC	12B	.0502*	24:10 NCR
<u>Boating</u>	15A NCAC	12B	.0601*	24:10 NCR
<u>Camping</u>	15A NCAC	12B	.0602*	24:10 NCR
<u>Sports and Games: When Permitted</u>	15A NCAC	12B	.0701*	24:10 NCR
<u>Fishing</u>	15A NCAC	12B	.0802*	24:10 NCR
<u>Noise Regulation</u>	15A NCAC	12B	.1001*	24:10 NCR
<u>Intoxication Liquors: Controlled Substance or Beverages</u>	15A NCAC	12B	.1003*	24:10 NCR
<u>Animals at Large</u>	15A NCAC	12B	.1004*	24:10 NCR
<u>Commercial Enterprises</u>	15A NCAC	12B	.1101*	24:10 NCR
<u>Public Assemblies and Meetings; Special Activity Permit</u>	15A NCAC	12B	.1105*	24:10 NCR
<u>Closing and Opening Hours; Restricted Areas</u>	15A NCAC	12B	.1201*	24:10 NCR
<u>Reservation Periods</u>	15A NCAC	12B	.1205*	24:10 NCR
<u>Fees and Charges</u>	15A NCAC	12B	.1206*	24:10 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Definitions</u>	15A NCAC	18A	.2508*	24:07 NCR
<u>Plan Review and Approval</u>	15A NCAC	18A	.2509*	24:07 NCR
<u>Public Swimming Pool Operation Permits</u>	15A NCAC	18A	.2510*	24:07 NCR
<u>Inspections</u>	15A NCAC	18A	.2511*	24:07 NCR
<u>Materials of Construction</u>	15A NCAC	18A	.2514*	24:07 NCR
<u>Design Details</u>	15A NCAC	18A	.2515*	24:07 NCR
<u>Pool Profile</u>	15A NCAC	18A	.2516*	24:07 NCR
<u>Circulation System</u>	15A NCAC	18A	.2518*	24:07 NCR
<u>Ladders, Recessed Steps, and Stairs</u>	15A NCAC	18A	.2521	24:07 NCR
<u>Depth Markings and Safety Ropes</u>	15A NCAC	18A	.2523*	24:07 NCR
<u>Lighting and Ventilation</u>	15A NCAC	18A	.2524	24:07 NCR
<u>Fences</u>	15A NCAC	18A	.2528*	24:07 NCR
<u>Wading Pools</u>	15A NCAC	18A	.2531*	24:07 NCR
<u>Spas and Hot Tubs</u>	15A NCAC	18A	.2532*	24:07 NCR
<u>Water Quality Standards</u>	15A NCAC	18A	.2535*	24:07 NCR
<u>Suction Hazard Reduction</u>	15A NCAC	18A	.2539*	24:07 NCR

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

<u>Unauthorized Entry</u>	15A NCAC	28	.0301*	24:12 NCR
<u>Sales of Alcohol or Controlled Substances</u>	15A NCAC	28	.0502*	24:12 NCR
<u>Consumption of Alcohol</u>	15A NCAC	28	.0503*	24:12 NCR
<u>Pets</u>	15A NCAC	28	.0504*	24:12 NCR
<u>Advertising</u>	15A NCAC	28	.0602*	24:12 NCR
<u>Photographs</u>	15A NCAC	28	.0603*	24:12 NCR

APPROVED RULES

<u>Logos: Slogans: Etc.</u>	15A	NCAC	28	.0604*	24:12	NCR
<u>Solicitations</u>	15A	NCAC	28	.0605*	24:12	NCR
<u>Flowers: Plants: Animals: Etc.</u>	15A	NCAC	28	.0701*	24:12	NCR

DIETETICS/NUTRITION, BOARD OF

<u>Individuals Aiding the Practice of Dietetics/Nutrition</u>	21	NCAC	17	.0401*	24:09	NCR
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OCCUPATIONAL THERAPY, BOARD OF

<u>License Renewal</u>	21	NCAC	38	.0302*	24:13	NCR
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COMMUNITY COLLEGES, BOARD OF

<u>Noncertified Source Purchases</u>	23	NCAC	02C	.0505	24:12	NCR
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STATE PERSONNEL COMMISSION

<u>Other Management Approved Leave</u>	25	NCAC	01E	.1009*	24:10	NCR
<u>Non-Discretionary Types of Other Management Approved Leave</u>	25	NCAC	01E	.1010*	24:10	NCR
<u>Discretionary Types</u>	25	NCAC	01E	.1011*	24:10	NCR
<u>Smallpox Vaccination</u>	25	NCAC	01E	.1701	24:10	NCR

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

COMMUNITY COLLEGES, BOARD OF

<u>Admission to Colleges</u>	23	NCAC	02C	.0301*	24:08	NCR
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TITLE 02 – DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

02 NCAC 09L .1111 CERTIFICATION/ RECERTIFICATION FEE

A nonrefundable fee of ten dollars (\$10.00) shall be required for private pesticide applicator certification or recertification.

History Note: Authority G.S. 143-440(b); Temporary Adoption Eff. October 1, 1987, for a Period of 180 Days to Expire on March 29, 1988; Eff. March 1, 1988; Amended Eff. May 1, 2010.

- (1) deposited in the United States mail with sufficient first class postage affixed, addressed to the most recent principal office address provided by the addressee to the Office of the Commissioner of Banks; or
- (2) transmitted through electronic mail to the address provided by the addressee to the Office of the Commissioner of Banks.

(b) Any application for licensure, report, annual statement, amendment to application, notice or other document which is required or permitted by law or rule to be filed with the Commissioner shall be in writing, and submitted in an electronic format through the NMLS&R.

(c) Where the NMLS&R does not make available submission of any document required or permitted by law to be filed with the Commissioner, such a document may be filed by electronic submission through the Office of the Commissioner of Bank's website (www.nccob.gov), if the Commissioner makes such electronic submission available.

History Note: Authority G.S. 53-244.118; Temporary Adoption Eff. July 1, 2002; Eff. April 1, 2003; Amended Eff. May 1, 2010.

04 NCAC 03M .0201 APPLICATION

TITLE 04 – DEPARTMENT OF COMMERCE

04 NCAC 03M .0102 NOTICES

(a) Except as otherwise required by G.S. 53-244.113(b), Article 3A, Chapter 150B of the General Statutes, or by the rules of the North Carolina Office of Administrative Hearings, any document, decision or other communication required or permitted to be given by the Commissioner to a licensee, an applicant for a license or an exempt person is considered given when either:

(a) All fees required by G.S. 53-244.090 or 53-244.101 shall be submitted with an application for licensure or renewal of license as a mortgage lender, mortgage broker, mortgage servicer, exclusive mortgage broker or mortgage loan originator. The fees are nonrefundable.

(b) Each type of application required by the rules in this Subchapter or the Act shall be filed through the NMLS&R and shall be verified by the oath or affirmation of the applicant or a principal officer thereof.

(c) In addition to the documents and information required by the rules in this Subchapter, the Commissioner or his or her staff may require additional information according to the Rules in order to enable the Commissioner to determine that the applicant meets or the licensee continues to meet the requirements of G.S. 53-244.040, 53-244.050, 53-244.060, 53-244.070, 53-244.080, 53-244.100, 53-244.101, 53-244.102, 53-244.103, 53-244.104, and 53-244.105.

(d) Applications submitted without the required fees or which are missing material information shall be held in pending status for a period of 30 calendar days after written notice to the applicant specifying the nature of the deficiency. If any such deficiency remains outstanding for more than 30 days, the application shall automatically be considered withdrawn without further action by the Commissioner, and the applicant shall submit a new application and pay all fees associated therewith.

History Note: Authority G.S. 53-244.040, 53-244.050; 53-244.060; 53-244.070, 53-244.080, 53-244.100; 53-244.101; 53-244.102; 53-244.103; 53-244.104; 53-244.118; Temporary Adoption Eff. July 1, 2002; Eff. April 1, 2003; Amended Eff. May 1, 2010.

04 NCAC 03M .0202 NONTRANSFERABILITY

(a) Any attempt to transfer or assign a license through a change of control without the prior consent of the Commissioner shall:

- (1) be ineffective;
- (2) be grounds for summary suspension, or revocation of the license or other remedies available to the Commissioner; and
- (3) render the licensee jointly and severally liable with the assignee for any actions or omissions of its assignee which occur while acting under the apparent authority of the license.

(b) A change in the identity of a licensee's controlling person or any material change in the licensee's organizational structure shall be considered a transfer or assignment of the license. However, the Commissioner shall permit the change without requiring the licensee to apply for a new license, provided:

- (1) the licensee gives notice to the Commissioner at least 60 days in advance of the effective date of the proposed change; and
- (2) the Commissioner determines that permitting the licensee to continue to operate under its existing license would not be inconsistent with the purposes of the Act.

(c) A notice pursuant to Subparagraph (b)(1) of this Rule shall include sufficient detail to enable the Commissioner to make the determination described in that Subparagraph (b)(2) of this Rule.

(d) The Commissioner shall waive or reduce the advance notice requirement of Subparagraph (b)(1) of this Rule if the Commissioner determines that:

- (1) circumstances beyond the licensee's reasonable control would make compliance therewith unduly burdensome to the licensee;
- (2) consumers would not be harmed by such a waiver or reduction of the advance notice requirement;
- (3) the licensee has otherwise satisfied the requirements of this Rule; and
- (4) waiver of the requirement of Subparagraph (b)(1) is in the public interest.

History Note: Authority G.S. 53-244.050; 53-244.060; 53-244-100; 53-244.118; Temporary Adoption Eff. July 1, 2002; Eff. April 1, 2003; Amended May 1, 2010.

04 NCAC 03M .0204 EXPERIENCE

As used in G.S. 53-244.050(b)(2), a person is considered to have acquired "experience in residential mortgage lending" during any documented period in which:

- (1) that person's employment income was principally derived from employment in the mortgage lending, mortgage servicing, or mortgage brokerage industry; and
- (2) that person had actual responsibility for job functions in each area of study included in a prelicensing education program.

History Note: Authority G.S. 244-118; Eff. April 1, 2003; Amended Eff. May 1, 2010; April 1, 2008.

04 NCAC 03M .0206 SURETY BOND

(a) All licensees with surety bonds under G.S. 53-244.103 must ensure that full amount of the surety bond is in effect at all times. In the event of a claim against the bond, the licensee has 30 days to reinstate the bond to the level required in G.S. 53-244.103. Failure to maintain the surety bond at the level required in G.S. 53-244.103 is grounds for immediate suspension of licensure.

(b) All licensees with surety bonds under G.S. 53-244.103 must report any claims made against the surety bond to the Commissioner within 10 business days upon receipt of notice of any claim.

(c) All surety bonds under G.S. 53-244.103 shall:

- (1) require the bonding company to report all claims and any claims paid on the bond to the Commissioner within 10 days of such claim or payment;
- (2) require the bonding company to pay within 30 days any amount which the Commissioner orders the bonding company to pay upon a determination by the Commissioner that the licensee has failed to faithfully perform the licensee's obligations; and

- (3) remain in effect for a minimum of five years after lapse or termination of the bond in order to satisfy possible claims for failure to faithfully fulfill obligations during the term of the bond.

History Note: Authority G.S. 53-103; Eff. April 1, 2008; Amended Eff. May 1, 2010.

04 NCAC 03M .0302 LOAN OFFICER EXAMINATION

04 NCAC 03M .0303 REQUIREMENTS FOR PROVIDERS

History Note: Authority G.S. 53-243.05; 53-243.07; 53-243.13; Temporary Adoption Eff. July 1, 2002; Eff. April 1, 2003; Repealed Eff. May 1, 2010.

04 NCAC 03M .0402 AMENDMENTS TO INFORMATION ON FILE WITH THE COMMISSIONER

- (a) A licensee shall notify the Commissioner within 30 days of any material change in any document or information previously submitted to, or otherwise filed with, the Commissioner.
- (b) Upon a licensee's discovery of an information security breach as defined in G.S. 75-61(14), the licensee shall within one business day provide to the Commissioner a copy of any notification which the licensee is required to give under G.S. 75-65.
- (c) Notification shall be in accordance with Rule .0102 of this Subchapter.

History Note: Authority G.S. 53-244.105(b); 53-244.118; Eff. April 1, 2003; Amended Eff. May 1, 2010; April 1, 2008.

04 NCAC 03M .0403 TERMINATION OF OPERATIONS

- (a) A licensee shall notify the Commissioner in writing of its decision to cease operations as a mortgage lender, mortgage servicer, or mortgage broker in this State, and the anticipated effective date of the cessation of operations, at least 15 days before the cessation.
- (b) A mortgage lender, mortgage servicer, or mortgage broker that has not originated or serviced a mortgage loan within a 12 month period is considered to have ceased operations. Cessation of operations is grounds for summary suspension pursuant to G.S. 53-244.114(b); provided, however, that suspension for cessation of operations shall not extend or revive any license that would otherwise terminate on December 31st based on the licensee's failure to renew its license or the Commissioner's refusal to renew the licensee's license.

History Note: Authority G.S. 53-244.118; Eff. April 1, 2003; Amended Eff. May 1, 2010; April 1, 2008.

04 NCAC 03M .0501 RECORDS TO BE MAINTAINED

- (a) A licensee shall maintain or cause to be maintained a record of all cash, checks or other monetary instruments received in connection with each mortgage loan application showing the identity of the payor, date received, amount, and purpose.
- (b) A licensee shall maintain a record showing a sequential listing of checks written for each bank account relating to the licensee's business as a mortgage broker or mortgage lender, showing at least the payee, amount, date, and purpose of payment, including identification of the loan to which it relates, if any. The licensee shall reconcile the bank accounts monthly. Financial records must be kept in a manner to permit efficient review by examiners.
- (c) A licensed mortgage lender or mortgage broker shall maintain a current listing of all mortgage loan applications in an electronic, searchable and sortable format that permits a timely review of information by the Commissioner.
- (d) A licensed mortgage lender or mortgage broker shall create and retain a file for each mortgage loan application that contains as applicable;

- (1) the applicant's name;
- (2) date the application was taken;
- (3) name of the person taking the application;
- (4) the application itself; and
- (5) if the loan was closed,
 - (A) the HUD-1 Settlement Statement;
 - (B) the loan note;
 - (C) the deed of trust;
 - (D) all agreements or contracts with the applicant, including any commitment and lock-in agreements, other information utilized in the origination of the mortgage loan; and
 - (E) all disclosures required by State or Federal law.

- (e) A licensed mortgage servicer shall create and retain a file for each mortgage loan which it services, which shall contain, as applicable:

- (1) the borrower or borrowers names;
- (2) a copy of the original note and Deed of Trust;
- (3) a copy of any disclosures or notifications provided to the borrower required by State or Federal law;
- (4) a copy of all written requests for information received from the borrower and the servicer's response to such requests as required by State or Federal law;
- (5) a record of all payments received from the borrower which contains all information required to be provided to a borrower upon request under G.S. 45-92(2)b;
- (6) a copy of any bankruptcy plan approved in a proceeding filed by the borrower or a co-owner of the property subject to the mortgage;
- (7) a communications log, if maintained by the servicer, which documents all verbal communication with the borrower or the borrower's representative;

- (8) a record of all efforts by the servicer to comply with the duties required under G.S. 53-244.110(7) including all information utilized in the servicer's determination regarding loss mitigation proposals offered to the borrower;
- (9) a copy of all notices sent to the borrower related to any foreclosure proceeding filed against the encumbered property; and
- (10) records regarding the final disposition of the loan including a copy of any collateral release document, records of servicing transfers, charge-off information, or REO disposition.

(f) A licensee shall maintain a record of samples of each piece of advertising relating to the licensee's business of mortgage lending or mortgage brokerage in North Carolina for a period of 12 months.

(g) A licensee shall maintain copies of all contracts, agreements and escrow instructions to or with any depository institution, any mortgage lender, mortgage servicer, or mortgage broker, any warehouse lender or other funding facility, any servicer of mortgage loans, and any investor, for a period of not less than three years after expiration of any such contract or agreement.

History Note: Authority G.S. 53-244.105; 53-244.115; 53-244.118; Eff. April 1, 2003; Amended Eff. May 1, 2010; April 1, 2008.

04 NCAC 03M .0502 FORM AND LOCATION OF RECORDS

(a) Except for samples of advertising materials retained pursuant to 4 NCAC 03M .0501(f), all records required by this Section shall be kept for a period of at least three years, and shall be available for inspection and copying upon request by the Commissioner.

(b) The records may be maintained in the form of magnetic tape, magnetic disk or other form of computer, electronic or microfilm media available for examination on the basis of computer printed reproduction, video display or other medium that is easily convertible by the Commissioner into legible, tangible documents.

(c) All records required by this Rule shall be prepared in accordance with generally accepted accounting principles, where applicable.

(d) All records required to be maintained shall be secured against unauthorized access and damage in a location within the State of North Carolina accessible to the Commissioner. However, a mortgage banking licensee which maintains a centralized out-of-state storage facility for the records from multiple states may request the Commissioner to approve its storage of such records in such out-of-state location. The requests will be approved provided that:

- (1) The Commissioner determines that the proposed storage will ensure that the records are secured against unauthorized access and damage; and
- (2) The licensee agrees in writing to make available at its expense for inspection and copying upon request by the Commissioner

copies of all requested records in a form which satisfies the requirements of Paragraph (b) of this Rule.

(e) If the Commissioner subsequently has reason to believe that records are not or will not be adequately secured against unauthorized access or damage, the Commissioner shall summarily revoke any approval previously granted under Paragraph (d) of this Rule.

(f) A licensee shall notify the Commissioner of any change in the location of its books and records within 10 days following such change.

History Note: Authority G.S. 53-244.105; 53-244.115; 53-244.118; Eff. April 1, 2003; Amended Eff. May 1, 2010.

04 NCAC 03M .0701 TRANSFER OF SERVICING RIGHTS

A person shall not transfer servicing rights or obligations to a person unless that person holds a mortgage servicing license or is a person otherwise exempt from the Act.

History Note: Authority 53-244.100(a); 53-244.110(1); 53-244.110(3); Eff. May 1, 2010.

04 NCAC 03M .0702 REQUIREMENTS FOR MORTGAGE SERVICERS TO COMMUNICATE EFFECTIVELY WITH BORROWERS REGARDING LOSS MITIGATION

(a) A mortgage servicer shall acknowledge, in writing, a borrower's loss mitigation request no later than 10 business days after the request. The acknowledgement must identify any information needed from the borrower in order for the mortgage servicer to consider the borrower's loss mitigation request. For purposes of this Rule and Rule .0703 of this Subchapter, a loss mitigation request is considered received by a servicer upon the borrower or the borrower's agent contacting the servicer at the address, phone or other contact information required to be provided to borrowers in a notice complying with G.S. 53-244.111(22).

(b) A mortgage servicer shall respond to a loss mitigation request from a borrower no later than 30 business days after the receipt of all information necessary from the borrower to assess whether or not a borrower qualifies for any loss mitigation programs offered by the mortgage servicer.

(c) A mortgage servicer shall include in a final response denying a loss mitigation request the reason for the denial and contact information for a person at the mortgage servicer with authority to reconsider the denial. In addition, the denial shall also include the following statement, in a boldface type and in a print no smaller than the largest print used elsewhere in the main body of the denial: "If you believe the loss mitigation request has been wrongly denied, you may file a complaint with the North Carolina Office of the Commissioner of Banks website, www.nccob.gov."

History Note: Authority G.S. 53-244.110(7); 53-244.118(a);

Eff. June 1, 2010.

04 NCAC 03M .0703 CESSATION OF FORECLOSURE ACTIVITY DURING PENDENCY OF LOSS MITIGATION REQUEST

(a) A mortgage servicer shall not initiate or further a foreclosure proceeding or impose a charge incident to a foreclosure proceeding during the pendency of a loss mitigation request; provided however, that this requirement does not apply if:

- (1) the borrower has failed to comply with the terms of a loss mitigation plan within the previous 12 months, if the loss mitigation plan:
 - (A) was implemented pursuant to a federal or state foreclosure prevention program, including the Home Affordable Modification Program; or
 - (B) reduced the monthly payment of loan by six percent from the scheduled monthly payment and resulted in a monthly payment of principal, interest, taxes, and insurance of less than 31 percent of the borrower's household income;
- (2) the mortgage servicer has provided a final response regarding a loss mitigation request within the last 12 months and reasonably believes that the current loss mitigation request was not made in good faith;
- (3) the borrower has failed to comply with a Chapter 13 bankruptcy repayment plan or has any bankruptcy proceedings dismissed for abuse of process within the last 12 months;
- (4) the loss mitigation request is received by the servicer after the time for appealing an order granting foreclosure of the secured residential real estate has passed in accordance with Article 2A of Chapter 45; or
- (5) the servicing contract or the terms of the mortgage loan, entered into prior to October 1, 2009, prohibits such a delay.

(b) Nothing in this Rule shall prevent a mortgage servicer, in order to avoid dismissal or any other adverse order in a foreclosure proceeding which was initiated prior to the loss mitigation request being received, from filing or causing to be filed any pleading or notice which is required under Article 2A of Chapter 45, the Rules of Civil Procedure, or the Local Rules of Court to continue or delay further proceedings.

History Note: Authority G.S. 53-244.110(7); 53-244.118(a); Eff. June 1, 2010.

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 22O .0118 PHARMACY SERVICES

(a) Reimbursement is provided for legend drugs, insulin, and over-the-counter (OTC) drugs documented in General Policy A2

on the Division of Medical Assistance (DMA) website. The list of covered OTC drugs is on Attachment A of General Policy No. A-2. The following is a list of requirements for coverage of drugs.

- (1) The prescribed drug must have a Federal Drug Administration (FDA) approved indication.
- (2) The prescribed drug must bear the federal legend statement.
- (3) The legend drug must be manufactured by a company that has signed a National Medicaid Drug Rebate Agreement with the Centers for Medicare and Medicaid Services (CMS).
- (4) The OTC drugs selected for coverage by DMA must be manufactured by a company that has signed a National Medicaid Drug Rebate Agreement with CMS.
- (5) Compounded drugs are covered when a mixture of two or more ingredients is physically inseparable, at least one of the components of the compounded drug is a legend drug, the quantity of legend drug is sufficient to have a therapeutic effect, and the legend drug is manufactured by a company that has signed a national Medicaid Drug Rebate Agreement with the Centers for Medicare and Medicaid Services (CMS).
- (6) Reimbursement is not provided for prescribed drugs documented on the CMS Drug Efficacy Study Implementation (DESI) list. These drugs are also known as less than effective (LTE) drugs.

(b) A prescription for a drug written under its brand or trade name shall be filled with a generic version of the drug when one is commercially available unless the prescriber has indicated that the brand name drug is medically necessary for the recipient. The prescriber shall indicate this by writing "medically necessary" on the face of the prescription order for the drug. The selection of a drug product shall not be more expensive than the brand or trade name originally written by the prescriber. The pharmacist shall fill the prescription with the least expensive generic in the pharmacy.

(c) All prescriptions must comply with state and federal laws and regulations for legal prescriptions.

(d) A credit must be issued by the pharmacy provider for returned medications returned to stock.

(e) The maximum days supply for all drugs is 34-day supply unless the medication meets the criteria for a 90-day supply indicated in Clinical Coverage Policy 9 on the DMA website.

(f) DMA shall impose a prior authorization program for covered outpatient drugs that comply with requirements of 42 U.S.C. 1396r-8 (d)(1)(A) and in accordance with Session Law 2009-451, and any subsequent amendments.

(g) DMA shall impose quantity limitations for drugs that are meant to be used episodically and dispensed in quantities that support less than daily use. Those drugs designated as episodic drugs are defined in Clinical Coverage Policy 9 on the DMA website.

(h) Recipients who receive more than 11 unduplicated prescriptions per month shall be evaluated as part of a Focused

Risk Management (FORM) Program. The FORM Program is an interdisciplinary, team-based approach including the pharmacy and the recipient's personal care physician for coordination of recipient care. The following are requirements for the FORM Program:

- (1) The pharmacist shall coordinate, integrate, and communicate a comprehensive review plan with the patient's primary care provider.
- (2) The comprehensive review plan shall identify, resolve, and recommend cost-effective, safe, and efficacious drug alternatives; and shall include a list of all medications dispensed at the pharmacy during the review period and a list of recommendations to improve the recipients drug regimen.
- (3) The pharmacy shall communicate the comprehensive review plan to the recipient's PDP for review and coordination of care. The pharmacist shall obtain a written response from the PDP that accepts or modifies the comprehensive review plan. If the PDP fails to provide a response within one month from the date of the communication, the pharmacy shall document such failure on the comprehensive review plan.
- (4) The first review must be completed within two months of the recipient's identification for the program. Reviews thereafter shall be performed quarterly.
- (5) DHHS, Division of Medical Assistance shall make a professional services fee to the pharmacy provider on a quarterly basis, based on the completion of the comprehensive review plan under FORM Program for each identified recipient. The professional services fee is based on average time for the pharmacist to complete the review at an estimated average pharmacist hourly wage.
- (6) A failure to perform a required comprehensive review plan or failure to have documentation of the review on file at the time of audit, shall result in the recoupment of professional service fee and payment for all claims that exceed the limit of 11 unduplicated prescriptions per month during those periods of time when a completed comprehensive review plan was not in place.

(i) All recipients receiving more than 11 unduplicated prescriptions per month must participate in the FORM program. The following rules apply to the recipient:

- (1) The recipient shall choose a single pharmacy of his/her choice.
- (2) The recipient may elect to change his/her pharmacy provider by request made to DMA or DMA's fiscal agent from the current pharmacist or from the recipient's primary care provider.
- (3) Emergency fills for recipients are limited to a four-day supply.

- (4) The following recipients are exempt from the FORM program:
 - (A) recipients under the age of 21;
 - (B) recipients residing in a nursing facility or an intermediate care facility for individuals with mental retardation; and
 - (C) recipients residing in an assisted living facility or group home.
- (j) No pharmacist is required to accept a new recipient. Pharmacists may accept new recipients of their choice.
- (k) Copayments shall be charged in accordance with 10A NCAC 22D .0101.

History Note: Authority G.S. 90-85.26; 108A-25(b); 108A-54; 42 C.F.R. 440.90; 42 CFR 447.331; S.L. 1985, c. 479, s. 86; 42 U.S.C. 1396r-8(d)(1)(A); S.L. 2009-451; Eff. September 30, 1977; Readopted Eff. October 31, 1977; Amended Eff. January 1, 1984; Recodified from 10 NCAC 26B .0116 Eff. October 1, 1993; Recodified from 10 NCAC 26B .0117 Eff. January 1, 1998; Amended Eff. May 1, 2010.

10A NCAC 70G .0506 CLIENT RECORDS

(a) The agency shall maintain an individual record for each child receiving foster care services which contains:

- (1) an application for services that includes:
 - (A) demographic information about the child, including name, address, sex, race, birth date, birth place, educational information, medical information and client record number;
 - (B) demographic information about the parents or guardian of the child, including names, addresses, telephone numbers, birth dates, races, religion and marital status;
 - (C) demographic information about the siblings and other relatives of the child, including names, addresses, and telephone numbers;
 - (D) the reasons the child was removed from the home of his or her parents;
 - (E) a record of the child's prior placements with names and addresses of foster parents and other caregivers and dates of care provided by each foster parent or caregiver, and
 - (F) the services the agency shall provide the child and his or her parents or guardian.
- (2) legal documents of importance to the child including a birth certificate and any court dispositions;
- (3) pre-admission medical examination report or a medical examination report completed within

- (4) two weeks of admission (unless the child's health status indicates the completion of a medical examination report sooner) and copies of subsequent medical examination reports;
- (4) medical reports including medical history, cumulative health history, immunization records, and available psychological and psychiatric reports; and if applicable:
 - (A) documentation of mental illness, developmental disabilities or substance abuse diagnosis coded according to the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition-Revised DSM IV;
 - (B) documentation of screening and assessment;
 - (C) medication orders and Medication Administration Record (MAR);
 - (D) documentation of medication administration errors;
 - (E) documentation of adverse drug reactions; and
 - (F) orders and copies of lab tests;
- (5) educational assessments, records and reports of school-age children;
- (6) intake study which includes initial social assessment and background of parents or guardian and the circumstances leading to the decision to place the child;
- (7) signed out-of-home family services agreement or person-centered plan along with out-of-home family services agreement or person-centered plan reviews which reflect the status of the child, parents or guardian in relation to the out-of-home family services agreement or person-centered plan and any progress or lack of progress in the goals of the out-of-home family services agreement or person-centered plan;
- (8) documentation of services provided;
- (9) documentation which reflects the dates and content of social worker's or case manager's visits with the child;
- (10) documentation of the agency's involvement with the parents, guardian or legal custodian, including services offered, delivered, or rejected;
- (11) documentation which includes the content of any administrative or service reviews;
- (12) a visitation and contact plan that specifies the child's contacts with parents, guardian, siblings and other family members and individuals who may have contact with the child;
- (13) consents for release of information;
- (14) a signed statement from the parents, guardian or legal custodian, granting permission to seek emergency care from a hospital or licensed medical provider;
- (15) emergency information for each child that shall include the name, address and telephone number of the person to be contacted in case of sudden illness or accident and the name, address and telephone number of the child's preferred licensed medical provider;
- (16) authorization from the parents, guardian, legal custodian or licensed medical provider to administer non-prescription medications;
- (17) consents for overnight travel and other travel consents based on the requirements of the parents, guardian or legal custodian;
- (18) consents for time-limited audio-visual recordings signed by the parents, guardian or legal custodian, and child, if 12 years of age or older;
- (19) documentation of searches for drugs, weapons, contraband or stolen property, including date and time of the search, action taken by foster parents and the agency, name of foster parent informing the agency, the date and time the agency is informed of the search, the date and time of the notification to the child's parents, guardian or legal custodian; and
- (20) discharge summary including date and time of discharge, the name, address, telephone number, and relationship of the person or agency to whom the child was discharged, a summary of services provided during care, needs which remain to be met, and plans for the services needed to meet these goals.
 - (b) If the agency maintains a separate record on the parents and guardians of children whom they place into care, the parents' or guardians' record shall contain:
 - (1) demographic information including names, addresses, birth dates, races, religion, family composition;
 - (2) social histories, including any psychological or psychiatric reports and medical histories;
 - (3) strengths and needs of the parents or guardian and the services required;
 - (4) signed agreements between the agency and parents or guardian;
 - (5) summary of dates of contacts and progress toward goals;
 - (6) case review reports; and
 - (7) discharge summary.
 - (c) Documentation shall be entered into the child's, parents' or guardian's records within five days of occurrence.
 - (d) The agency shall keep separate records for each family foster home which contains:
 - (1) application;
 - (2) mutual home assessment;
 - (3) medical examination reports;
 - (4) fire inspection safety report;
 - (5) environmental conditions checklist;
 - (6) proof of high school diploma or GED;
 - (7) dates and content of worker's contacts with the foster family;

- (8) training record that includes all required and ongoing training;
- (9) foster parent agreement signed by foster parents and agency representative;
- (10) discipline agreement signed by foster parents and agency representative;
- (11) three references relevant to the role and responsibilities of a foster parent;
- (12) annual assessment of strengths and needs of the foster family in providing foster care to children;
- (13) chronological record of all placements of children receiving care in the home, including the dates of their care and an assessment of the care;
- (14) written approval letter from executive director or his or her designee authorizing foster parents to administer physical restraint holds, if applicable;
- (15) signed statement by the foster parents and adult members of the household that they have not been found to have abused or neglected a child or have not 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;
- (16) signed statement by the foster parents and adult members of the household that they have not been confirmed or substantiated for abusing, neglecting or exploiting a disabled adult;
- (17) 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 indicate they have not had child protective services involvement resulting in a substantiation of child abuse or serious neglect;
- (18) signed statement by the foster parents and adult members of the household that they have not been a domestic violence perpetrator;
- (19) documentation of the results of the search of the North Carolina Sex Offender and Public Protection Registry of all adult members of the household;
- (20) documentation of the results of the search of the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256 of all adult members of the household;
- (21) copies of waivers, as specified in 10A NCAC 70L .0102; and
- (22) when closed, a summary containing reasons for the closing of the home and an assessment of the strengths and needs of the foster family in providing foster care to children.

Amended Eff. May 1, 2010.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 07D .0405 PRIVATE INVESTIGATOR'S USE OF A BADGE

While engaged in their official duties, a private investigator shall be allowed to carry, possess, and display a badge that has been approved by the Board, the North Carolina Sheriffs' Association, and the North Carolina Association of Chiefs of Police. The badge shall be a duplicate as shown below except for the licensee's name and license number. The badge shall be gold with dark blue lettering. Any deviation from the below design shall be deemed an unauthorized badge and shall constitute a violation of the statute and rules. The badge shall be displayed in a folding pocket case with the badge displayed on one side of the case and the Private Investigator's pocket credential, that is issued by the Board, displayed on the opposite side of the case.



History Note: Authority G.S. 74C-5(12); Eff. May 1, 2010.

12 NCAC 07D .0702 FEES FOR UNARMED SECURITY GUARD REGISTRATION

(a) Fees for unarmed security guards are as follows:

- (1) twenty five dollars (\$25.00) non-refundable initial registration fee;
- (2) twenty five dollars (\$25.00) annual renewal, or reissue fee;
- (3) ten dollars (\$10.00) transfer fee; and
- (4) twenty-five dollars (\$25.00) late renewal fee to be paid within 90 days from the date the registration expires and to be paid in addition to the renewal fee.

(b) Fees shall be paid in the form of a check or money order made payable to the Private Protective Services Board.

History Note: Authority G.S. 74C-9; Eff. June 1, 1984; Amended Eff. December 1, 1985; Temporary Amendment Eff. January 1, 1990 for a Period of 180 Days to Expire on July 1, 1990; ARRC Objection Lodged January 18, 1990; Amended Eff. May 1, 2010; December 1, 2003; July 1, 1990.

History Note: Authority G.S. 131D-10.5; 143B-153; Eff. October 1, 2008;

12 NCAC 11 .0302 FEES FOR REGISTRATION

- (a) Registration fees are as follows:
(1) Forty-five dollar (\$45.00) non-refundable biennial registration fee;
(2) Ten dollar (\$10.00) non-refundable re-issue fee for lost cards or for registration of an employee who changes employment to another licensee;
(3) Ten dollar (\$10.00) non-refundable annual multiple registration fee;
(4) Ten dollar (\$10.00) fee for each reconsideration of a registration permit that has been previously filed with the Board but returned to the licensee or applicant for correctable errors;
(5) Twenty dollar (\$20.00) late renewal fee to be paid for an application submitted no more than 30 days from the date the registration expires and to be paid in addition to the renewal fee.
(b) Fees shall be paid in the form of a check or money order made payable to the Alarm Systems Licensing Board.

History Note: Authority G.S. 74D-7; Temporary Rule Eff. January 9, 1984, for a period of 120 days to expire on May 7, 1984; Eff. May 1, 1984; Amended Eff. January 1, 1986; Temporary Amendment Eff. October 6, 1992 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. May 1, 2010; February 1, 2010; April 1, 2005; March 1, 1993.

215.6B (criminal penalties), and G.S. 143-215.6C (injunctive relief).

History Note: Authority G.S. 143-214.1; 143-214.5; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; Eff. April 1, 1999; Amended Eff. May 1, 2010.

15A NCAC 04B .0131 SELF-INSPECTIONS

Where inspections are required by G.S. 113A-54.1(e), the following apply:

- (1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:
(a) all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;
(b) the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0248 RANDLEMAN LAKE WATER SUPPLY WATERSHED: NUTRIENT MANAGEMENT STRATEGY

- (a) All waters of the Randleman Lake (Deep River) water supply watershed are classified for water supply uses and designated by the Environmental Management Commission as a Critical Water Supply Watershed pursuant to G.S. 143-214.5(b). The following rules shall be implemented for the entire drainage area upstream of the Randleman Lake Dam:
(1) Rule .0249 of this Section for Wastewater Discharges,
(2) Rule .0250 of this Section for Protection and Maintenance of Riparian Areas, and
(3) Rule .0251 of this Section for Urban Stormwater Management.
(b) Failure to meet the requirements of the Rules in this Section may result in the imposition of enforcement measures as authorized by G.S. 143-215.6A (civil penalties), G.S. 143-

- (c) condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - (c) the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the approved erosion and sedimentation control plan. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - (d) that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and
 - (e) any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.
- (2) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.

- (3) The inspection shall be performed during or after each of the following phases of a plan:
 - (a) installation of perimeter erosion and sediment control measures;
 - (b) clearing and grubbing of existing ground cover;
 - (c) completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);
 - (d) completion of storm drainage facilities;
 - (e) completion of construction or development; and
 - (f) quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

History Note: Authority G.S. 113A-54; 113A-54.1(e); Eff. October 1, 2010.

15A NCAC 07H .1704 GENERAL CONDITIONS

- (a) Work permitted by means of an emergency general permit shall be subject to the following limitations:
 - (1) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative so that the proposed emergency work can be delineated. Written authorization to proceed with the proposed development may be issued during this visit.
 - (2) No work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency, to restore the damaged property to its condition immediately before the emergency, or to re-establish necessary public facilities or transportation corridors.
 - (3) Any permitted erosion control projects shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of way in the case of roads. If a building or road

is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or designee.

- (4) Fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source. Excavation below MHW in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
- (5) Structural work shall meet sound engineering practices.
- (6) This permit allows the use of oceanfront erosion control measures for all oceanfront properties without regard to the size of the existing structure on the property or the date of construction.

(b) Individuals shall allow authorized representatives of the Department of Environment and Natural Resources to make inspections at any time deemed necessary to be sure that the activity being performed under authority of this general permit is in accordance with the terms and conditions in these Rules.

(c) Development shall not jeopardize the use of the waters for navigation or for other public trust rights in public trust areas including estuarine waters.

(d) This permit shall not be applicable to proposed construction where the Department has determined, based on an initial review of the application, that notice and review pursuant to G.S. 113A-119 is necessary because there are unresolved questions concerning the proposed activity's impact on adjoining properties or on water quality, air quality, coastal wetlands, cultural or historic sites, wildlife, fisheries resources, or public trust rights.

(e) This permit does not eliminate the need to obtain any other state, local, or federal authorization.

(f) Development carried out under this permit must be consistent with all local requirements, CAMA rules, and local land use plans, storm hazard mitigation, and post-disaster recovery plans current at the time of authorization.

History Note: Authority G.S. 113-229(c); 113A-107(a),(b); 113A-113(b); 113A-118.1; Eff. November 1, 1985; Amended Eff. December 1, 1991; May 1, 1990; RRC Objection due to ambiguity Eff. May 19, 1994; Amended Eff. May 1, 2010; August 1, 1998; July 1, 1994.

15A NCAC 07H .1705 SPECIFIC CONDITIONS

(a) Temporary Erosion Control Structures in the Ocean Hazard AEC.

- (1) Permittable temporary erosion control structures shall be limited to sandbags placed

landward of mean high water and parallel to the shore.

- (2) Temporary erosion control structures as defined in Subparagraph (1) of this Paragraph shall be used to protect only imminently threatened roads and associated right of ways, and buildings and their associated septic systems. A structure shall be considered imminently threatened if its foundation, septic system, or, right-of-way in the case of roads, is less than 20 feet away from the erosion scarp. Buildings and roads located more than 20 feet from the erosion scarp or in areas where there is no obvious erosion scarp may also be found to be imminently threatened when site conditions, such as a flat beach profile or accelerated erosion, increase the risk of imminent damage to the structure.

- (3) Temporary erosion control structures shall be used to protect only the principal structure and its associated septic system, but not appurtenances such as pools, gazebos, decks or any amenity that is allowed as an exception to the erosion setback requirement.

- (4) Temporary erosion control structures may be placed seaward of a septic system when there is no alternative to relocate it on the same or adjoining lot so that it is landward of or in line with the structure being protected.

- (5) Temporary erosion control structures shall not extend more than 20 feet past the sides of the structure to be protected. The landward side of such temporary erosion control structures shall not be located more than 20 feet seaward of the structure to be protected or the right-of-way in the case of roads. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat beach profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal management or designee.

- (6) Temporary erosion control structures may remain in place for up to two years after the date of approval if they are protecting a building with a total floor area of 5000 square feet or less and its associated septic system, or for up to five years for a building with a total floor area of more than 5000 square feet and its associated septic system. Temporary erosion control structures may remain in place for up to five years if they are protecting a bridge or a road. The property owner shall be responsible for removal of the temporary

- structure within 30 days of the end of the allowable time period.
- (7) Temporary sandbag erosion control structures may remain in place for up to five years from the date of approval if they are located in a community that is actively pursuing a beach nourishment project, and up to eight years from the date of approval if they are located in an Inlet Hazard Area adjacent to an inlet for which a community is actively pursuing an inlet relocation project. For purposes of this Rule, a community is considered to be actively pursuing a beach nourishment or inlet relocation project if it has:
- (A) an active CAMA permit, where necessary, approving such project, or
 - (B) been identified by a U.S. Army Corps of Engineers' Beach Nourishment Reconnaissance Study, General Reevaluation Report, Coastal Storm Damage Reduction Study, or an ongoing feasibility study by the U.S. Army Corps of Engineers and a commitment of local or federal money, when necessary; or
 - (C) received a favorable economic evaluation report on a federal project; or
 - (D) is in the planning stages of a project that has been designed by the U.S. Army Corps of Engineers or persons meeting applicable State occupational licensing requirements and has been initiated by a local government or community with a commitment of local or state funds to construct the project and the identification of the financial resources or funding bases necessary to fund the beach nourishment or inlet relocation project.
- If beach nourishment or inlet relocation is rejected by the sponsoring agency or community, or ceases to be actively planned for a section of shoreline, the time extension is void for that section of beach or community and existing sandbags are subject to all applicable time limits set forth in Subparagraph (6) of this Paragraph.
- (8) Once the temporary erosion control structure is determined to be unnecessary due to relocation or removal of the threatened structure, a storm protection project constructed by the U.S. Army Corps of Engineers, a large scale beach nourishment project or an inlet relocation project, it shall be removed by the permittee within 30 days of official notification by the Division of Coastal Management regardless of
- the time limit placed on the temporary erosion control structure.
- (9) Removal of temporary erosion control structures shall not be required if they are covered by dunes with stable and natural vegetation.
- (10) The property owner shall be responsible for the removal of remnants of all portions of any damaged temporary erosion control structure.
- (11) Sandbags used to construct temporary erosion control structures shall be tan in color and 3 to 5 feet wide and 7 to 15 feet long when measured flat. Base width of the structure shall not exceed 20 feet, and the height shall not exceed 6 feet.
- (12) Soldier pilings and other types of devices to anchor sandbags shall not be allowed.
- (13) Excavation below mean high water in the Ocean Hazard AEC may be allowed to obtain material to fill sandbags used for emergency protection.
- (14) An imminently threatened structure may be protected only once regardless of ownership unless the threatened structure is located in an Inlet Hazard Area and in a community that is actively pursuing an inlet relocation project in accordance with Subparagraph (7). Existing temporary erosion control structures located in Inlet Hazard Areas may be eligible for an additional eight year permit extension provided that the structure being protected is still imminently threatened, the temporary erosion control structure is in compliance with requirements of this Subparagraph and the community in which it is located is actively pursuing an inlet relocation project in accordance with Subparagraph (7) of this Paragraph. In the case of a building, a temporary erosion control structure may be extended, or new segments constructed, if additional areas of the building become imminently threatened. Where temporary structures are installed or extended incrementally, the time period for removal under Subparagraph (6) or (7) shall begin at the time the initial erosion control structure is installed. For the purpose of this Rule:
- (A) a building and septic system shall be considered as separate structures.
 - (B) a road or highway shall be allowed to be incrementally protected as sections become imminently threatened. The time period for removal of each section of sandbags shall begin at the time that section is installed in accordance with Subparagraph (6) or (7) of this Rule.
- (15) Existing sandbag structures may be repaired or replaced within their originally permitted

dimensions during the time period allowed under Subparagraph (6) or (7) of this Rule.

(b) Erosion Control Structures in the Estuarine Shoreline, Estuarine Waters, and Public Trust AECs. Work permitted by this general permit shall be subject to the following limitations:

- (1) no work shall be permitted other than that which is necessary to reasonably protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;
- (2) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure. If a building or road is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the structure being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined by the Director of the Division of Coastal Management or designee.
- (3) fill material used in conjunction with emergency work for storm or erosion control in the Estuarine Shoreline, Estuarine Waters and Public Trust AECs shall be obtained from an upland source.

(c) Protection, Rehabilitation, or Temporary Relocation of Public Facilities or Transportation Corridors.

- (1) Work permitted by this general permit shall be subject to the following limitations:
 - (A) no work shall be permitted other than that which is necessary to protect against or reduce the imminent danger caused by the emergency or to restore the damaged property to its condition immediately before the emergency;
 - (B) the erosion control structure shall be located no more than 20 feet waterward of the imminently threatened structure or the right-of-way in the case of roads. If a public facility or transportation corridor is found to be imminently threatened and at increased risk of imminent damage due to site conditions such as a flat shore profile or accelerated erosion, temporary erosion control structures may be located more than 20 feet seaward of the facility or corridor being protected. In cases of increased risk of imminent damage, the location of the temporary erosion control structures shall be determined

by the Director of the Division of Coastal Management or designee;

(C) any fill materials used in conjunction with emergency work for storm or erosion control shall be obtained from an upland source except that dredging for fill material to protect public facilities or transportation corridors shall be considered in accordance with standards in 15A NCAC 7H .0208;

(D) all fill materials or structures associated with temporary relocations which are located within Coastal Wetlands, Estuarine Water, or Public Trust AECs shall be removed after the emergency event has ended and the area restored to pre-disturbed conditions.

(2) This permit authorizes only the immediate protection or temporary rehabilitation or relocation of existing public facilities. Long-term stabilization or relocation of public facilities shall be consistent with local governments' post-disaster recovery plans and policies which are part of their Land Use Plans.

History Note: Authority G.S. 113-229(c); 113A-107(a),(b); 113A-113(b); 113A-118.1; Eff. November 1, 1985; Amended Eff. April 1, 1999; February 1, 1996; June 1, 1995; Temporary Amendment Eff. July 3, 2000; May 22, 2000; Amended Eff. May 1, 2010; August 1, 2002.

15A NCAC 07H .2302 APPROVAL PROCEDURES

(a) The applicant shall contact the Division of Coastal Management (Division) and provide:

- (1) information on site location, project description, and his or her name, address and telephone number;
- (2) a dated plat(s) showing existing and proposed development; and
- (3) confirmation that:
 - (A) a written statement has been obtained and signed by the adjacent riparian property owners indicating that they have no objections to the proposed work; or
 - (B) the adjacent riparian property owners have been notified by certified mail of the proposed work. Such notice shall instruct adjacent property owners to provide any comments on the proposed development in writing for consideration by permitting officials to the Division of Coastal Management within 10 days of receipt of the notice and indicate that

no response shall be interpreted as no objection. Division staff shall review all comments. If the Division determines that:

- (i) the comments are relevant to the potential impacts of the proposed project; and
- (ii) the permitting issues raised by the comments require a more detailed review, then the Division shall notify the applicant that he or she shall be required to submit an application for a major development permit.

(b) Approval of individual projects shall be acknowledged in writing by the Division of Coastal Management and the applicant shall be provided a copy of this Section. Construction authorized by this permit shall be completed within two years of permit issuance or the general authorization shall expire and a new permit shall be required to begin or continue construction. For North Carolina Department of Transportation projects identified in the Transportation Improvement Program this permit shall not expire pursuant to G.S. 136-44.7B.

(c) No work shall begin until an onsite meeting is held with the applicant and a Division of Coastal Management representative. Written authorization to proceed with the proposed development shall be issued during this visit if the Division representative finds that the application meets all the requirements of this Subchapter.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;
Eff. June 1, 1996;
Amended Eff. May 1, 2010.

15A NCAC 07H .2303 PERMIT FEE

The applicant shall pay a permit fee of four hundred dollars (\$400.00). This fee shall be paid by inter-departmental fund transfer, check or money order made payable to the Department of Environment and Natural Resources.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-119; 113A-119.1; 113A-124;
Eff. June 1, 1996;
Amended Eff. May 1, 2010; September 1, 2006; August 1, 2000.

15A NCAC 07H .2304 GENERAL CONDITIONS

(a) Projects authorized by this permit shall be demolition, removal, and replacement of existing bridges and culverts along the existing alignment and conforming to the standards in this Rule. This permit shall be applicable only to single bridge and culvert projects and shall not authorize temporary fill causeways or temporary bridges that may be associated with bridge replacement projects.

(b) The permittee shall allow authorized representatives of the Department of Environment and Natural Resources (Department) to make periodic inspections at any time deemed necessary in order to ensure that the activity being performed

under authority of this general permit is in accordance with the terms and conditions prescribed in this Rule.

(c) This general permit shall not be applicable to proposed construction where the Department determines that authorization may be warranted, but that the proposed activity might significantly affect the quality of human environment or unnecessarily endanger adjoining properties.

(d) This general permit shall not be applicable to proposed construction where the Department determines that the proposed activity would have significant adverse impacts on water quality or historic, cultural, scenic, fisheries, or recreational resources.

(e) This permit shall not eliminate the need to obtain any other required state, local, or federal authorization.

(f) Development carried out under this permit shall be consistent with all local requirements, AEC rules, and local land use plans.

(g) This permit shall not apply to projects that require work channels.

(h) Review of individual project requests shall be coordinated with the Division of Marine Fisheries (DMF) and the Wildlife Resources Commission (WRC). This may result in a construction moratorium during periods of significant biological productivity or critical life stages as determined by the WRC and DMF.

(i) Development under this permit shall be carried out within Department of Transportation (DOT) right-of-ways or on lands under the ownership of the applicant in the case of a non-DOT project.

(j) Bridge and culvert replacements shall be designed to minimize any adverse impacts to potential navigation or use of the waters by the public.

(k) This permit shall apply only to projects involving replacement of bridges and culverts currently serving their intended function.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124;
Eff. June 1, 1996;
Amended Eff. May 1, 2010.

15A NCAC 07H .2305 SPECIFIC CONDITIONS

(a) This general permit is applicable to bridge replacement projects spanning no more than 400 feet of estuarine water, public trust area, and coastal wetland AECs.

(b) Existing roadway deck width shall not be expanded to create additional lanes, with the exception that an existing one lane bridge may be expanded to two lanes where the Department of Environment and Natural Resources determines that authorization is warranted and the proposed project does not significantly affect the quality of the human and natural environment or unnecessarily endangers adjoining properties.

(c) Replacement of existing bridges with new bridges shall not reduce vertical or horizontal navigational clearances.

(d) All demolition debris shall be disposed of landward of all wetlands and the normal water level (NWL) or normal high water (NHW) level (as defined in 15A NCAC 07H .0106), and shall employ soil stabilization measures to prevent entry of sediments in the adjacent water bodies or wetlands.

(e) Bridges and culverts shall be designed to allow passage of anticipated high water flows.

(f) Measures sufficient to restrain sedimentation and erosion shall be implemented at each site.

(g) Bridge or culvert replacement activities involving excavation or fill in wetlands, public trust areas, and estuarine waters shall meet the following conditions:

- (1) Replacing bridges with culverts shall not be allowed in primary nursery areas as defined by the Marine Fisheries or Wildlife Resources Commissions.
- (2) The total area of public trust area, estuarine waters, and wetlands to be excavated or filled shall not exceed 2,500 square feet except that the coastal wetland component shall not exceed 750 square feet.
- (3) Culverts shall not be used to replace bridges with open water spans greater than 50 feet.
- (4) There shall be no temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands.
- (5) No excavated or fill material shall be placed in any wetlands or surrounding waters outside of the alignment of the fill area indicated on the work plat(s).
- (6) All excavated materials shall be confined above NWL or NHW and landward of any wetlands behind dikes or other retaining structures to prevent spill-over of solids into any wetlands or surrounding waters.
- (7) No bridges with a clearance of four feet or greater above the NWL or NHW shall be allowed to be replaced with culvert(s) unless the culvert design maintains the existing water depth, vertical clearance and horizontal clearance.
- (8) If a bridge is being replaced by a culvert(s) then the width of the waterbody shall not be decreased by more than 40 percent.
- (9) All pipe and culvert inverts placed within the Public Trust or the Estuarine Waters AECs shall be buried at least one foot below normal bed elevation to allow for passage of water and aquatic life. Culverts placed in wetlands are not subject to this requirement.

History Note: Authority G.S. 113A-107; 113A-118.1; 113A-124; Eff. June 1, 1996; Amended Eff. May 1, 2010.

15A NCAC 10B .0101 IMPORTATION OF WILD ANIMALS AND BIRDS

(a) Before any live wild bird or wild animal is imported into North Carolina for any purpose, a permit shall be obtained from the Executive Director of the North Carolina Wildlife Resources

Commission authorizing the importation, using application forms provided by the Commission.

(b) Deer, elk, or other species in the family Cervidae may only be imported into the state of North Carolina from a herd in which Chronic Wasting Disease (CWD) has not been detected for at least five years and has been managed using standards equivalent to, or more stringent than, the criteria specified in 15A NCAC 10H .0301 and 15A NCAC 10H .0302. The individual U.S. or Mexican state or territory, Canadian province or other country of origin must have CWD monitoring requirements that are at least as stringent as those described in this Rule, 15A NCAC 10H .0301 and 15A NCAC 10H .0302. The originating individual U.S. or Mexican state's or territory's, Canadian province's or other country's CWD monitoring program must be jointly reviewed by Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel before approval of any importation of cervids into North Carolina. There shall be no importation from individual U.S. or Mexican states or territories, Canadian provinces or other countries in which CWD has been detected, either in a wild herd or a captive herd.

(c) Cervids imported into North Carolina shall be individually identified by tags provided by the Wildlife Resources Commission that shall be affixed by the licensee to each cervid as set forth in 15A NCAC 10H .0301.

(d) Waterfowl imported into North Carolina shall be tested as follows:

- (1) Waterfowl shall be tested for Avian Influenza (AI) and Exotic Newcastle Disease (END) by use of serological screening methods and according to the following sample sizes:
 - <100 birds - test 95% of source flock or shipment
 - 101-200 birds - test 44% of source flock or shipment
 - 201-300 birds - test 26% of source flock or shipment
 - 301-400 birds - test 18% of source flock or shipment
 - 401-500 birds - test 14% of source flock or shipment
 - >500 birds - test 58 individuals from source flock or shipment.
- (2) Waterfowl that have tested positive in seriological tests shall be tested further by virus isolation/polymerase-chain-reaction (PCR) tests and identification techniques.
- (3) Cloacal swabs pooled into groups of no more than five samples for testing shall be used for virus isolation or PCR tests for AI and END.
- (4) Final virus isolation/PCR tests that are required because of positive results of serological tests shall be conducted within 10 days prior to release of birds.
- (5) The Wildlife Resources Commission shall not accept Directigen® test results for AI tests on captive-reared waterfowl.

- (6) Test results shall not be used to accept or reject any individual bird(s) from shipments or flocks that have positive results on any assay.
- (7) All test results shall be submitted directly from the testing lab to the Wildlife Resources Commission, Division of Wildlife Management.
- (8) Neither permit nor license shall be issued until tests are negative for AI and END.

Temporary Amendment Eff. October 8, 2002; May 17, 2002; Amended Eff. August 1, 2010; May 1, 2010; June 1, 2005; August 1, 2004.

NOTE: Italicized text was approved by the Rules Review Commission on April 16, 2009 and is awaiting legislative review in the 2010 session of the General Assembly based on the receipt of ten or more objections.

History Note: Authority G.S. 106.549.97; 113-134; 113-272.6; 113-274; 113-291.3; 113-292; Eff. February 1, 1976; Temporary Amendment Eff. October 8, 2002; May 17, 2002; Amended Eff. May 1, 2010; June 1, 2005; August 1, 2004.

15A NCAC 10B .0101 IMPORTATION OF WILD ANIMALS AND BIRDS

- (a) Before any live wild bird or wild animal is imported into North Carolina for any purpose, a permit shall be obtained from the Executive Director of the North Carolina Wildlife Resources Commission authorizing the importation, using application forms provided by the Commission.
- (b) Deer, elk, or other species in the family Cervidae may only be imported into the state of North Carolina from a herd in which Chronic Wasting Disease (CWD) has not been detected for at least five years and has been managed using standards equivalent to, or more stringent than, the criteria specified in 15A NCAC 10H .0301 and 15A NCAC 10H .0302. The individual U.S. or Mexican state or territory, Canadian province or other country of origin must have CWD monitoring requirements that are at least as stringent as those described in this Rule, 15A NCAC 10H .0301 and 15A NCAC 10H .0302. The originating individual U.S. or Mexican state's or territory's, Canadian province's or other country's CWD monitoring program must be jointly reviewed by Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel before approval of any importation of cervids into North Carolina. There shall be no importation from individual U.S. or Mexican states or territories, Canadian provinces or other countries in which CWD has been detected, either in a wild herd or a captive herd.
- (c) Cervids imported into North Carolina shall be individually identified by tags provided by the Wildlife Resources Commission that shall be affixed by the licensee to each cervid as set forth in 15A NCAC 10H .0301.
- (d) Waterfowl imported into North Carolina must be received from facilities or individuals who are certified under the National Poultry Improvement Plan (NPIP) as pullorum-typhoid and avian influenza negative. If the source birds are not part of NPIP, they must be tested pullorum-typhoid and avian influenza negative by NPIP standards within 30 days prior to entry into North Carolina. Health certificates for imported waterfowl shall be available for inspection by authorized Commission personnel upon request.

History Note: Authority G.S. 106.549.97; 113-134; 113-272.6; 113-274; 113-291.3; Eff. February 1, 1976;

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

(a) Depredation Permit:

- (1) Endangered or Threatened Species. No permit shall be issued to take any endangered or threatened species of wildlife listed under 15A NCAC 10I by reason of depredations to property. An individual may take an endangered or threatened species in immediate defense of his own life or of the lives of others without a permit. Any endangered or threatened species which may constitute a demonstrable but non-immediate threat to human safety shall be reported to a federal or state wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102.
- (2) Other Wildlife Species. Except as provided in Subparagraph (1) of this Paragraph, the Executive Director or an agent of the Wildlife Resources Commission may, upon application of a landholder and after such investigation of the circumstances as he may require, issue a permit to such landholder to take any species of wildlife which is or has been damaging or destroying his property provided there is evidence of property damage in excess of fifty dollars (\$50.00). No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation ~~permit~~ 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 seeking such a depredation permit must apply to the

Executive Director using a form supplied by the Commission which will request the following information:

- (A) the name and location of the municipality;
 - (B) the acreage of the affected property;
 - (C) a map of the affected property;
 - (D) the signature of an authorized municipality representative;
 - (E) the nature of the overabundance or the threat to public safety and any previous actions taken by the municipality to ameliorate the problem; and
 - (F) in the case of deer overabundance or a threat to public safety from deer, the years in which the municipality participated in the Urban Archery Season. If the municipality has not participated in the Urban Archery Season, the municipality must explain why.
- (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 shall 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 shall 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 is 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. An enforcement officer, if so requested by the permittee, shall provide the permittee a written authorization for the use by a charitable organization of the edible portions of the carcass.* The nonedible portions of the carcass, including head, hide, feet, and antlers, shall be disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition. When a deer is accidentally killed on a road or highway by reason of collision with a motor vehicle, the law enforcement officer who investigates the accident shall, upon request of the operator of the vehicle, provide such operator a written permit authorizing him to possess and transport the carcass of such deer for his personal and lawful use, including delivery of such carcass to a second person for his private use or the use by a charitable organization upon endorsement of such permit to such person or organization by name and when no money or other consideration of value is received for such delivery or endorsement.
- (3) Fox. Any fox killed accidentally shall be disposed of in the manner provided by Subparagraph (1) or (6) of this Paragraph. Any fox killed under a depredation permit may be disposed of in the same tagging manner or, upon compliance with the fur tagging requirements

of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer. ~~Any live fox taken under a depredation permit may be sold to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).~~

- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal either accidentally or for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in his or her 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 valid depredation permit shall report such kill on the form provided with the permit and mail the form 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. August 1, 2010; May 1, 2008; August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.

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. 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. August 1, 2010; June 1, 2009; May 1, 2007; May 1, 2004; July 1, 2000.

15A NCAC 10B .0121 WILD BIRDS DEFINED

The English sparrow (*Passer domesticus*), Eurasian collared dove (*Streptopelia decaocto*), pigeon (*Columba livia*), mute swan (*Cygnus olor*), and starling (*Sturnus vulgaris*) are specifically excluded from the definition of "wild birds" contained in G.S. 113-129(15a).

History Note: Authority G.S. 113-129; 113-134; Eff. December 1, 1987; Amended Eff. August 1, 2010; May 1, 2006; October 1, 2004.

15A NCAC 10B .0126 STATE HUNTING LICENSE EXEMPTIONS

(a) Any governmental or non-profit entity conducting an organized hunting event may obtain from the Executive Director or his designee, subject to the requirements in Paragraph (b) of this Rule, an exemption which allows all participants in the event to hunt without first obtaining hunting licenses, but the participants must:

- (1) comply with the hunter safety requirements of G.S. 113-270.1A or be accompanied by a properly licensed adult who maintains a proximity to the license exempt individual which enables the adult to monitor the activities of, and communicate with, the individual at all times;
- (2) report all big game harvested as proscribed in Rule .0113 of this Section;
- (3) obtain a certificate of participation in federal Harvest Information Program, if hunting migratory game birds; and
- (4) obtain a federal Migratory Bird Hunting and Conservation Stamp, if the participant is 16 years of age or older and hunting waterfowl.

(b) The governmental or non-profit entity requesting a state hunting license exemption shall apply using a form provided by the Commission and submit that form to the Chief of the Division of Wildlife Management not less than 21 days prior to the organized hunting event. A statement of purpose for the event must be attached to the completed form. The Executive Director or his designee shall deny any request with a statement of purpose that is:

- (1) inconsistent with the mission of the Wildlife Resources Commission as stated in Paragraph (d) of this Rule; or
- (2) for a purpose other than to promote hunting to youth, disabled people, novice hunters or lapsed hunters.

(c) The person in charge of the event must be on-site at all times and have a copy of the exemption available for inspection on request by Commission personnel. The exemption is limited to the immediate location of the event and shall remain in effect for the time period specified on the exemption.

(d) The mission of the N.C. Wildlife Resources Commission is to conserve North Carolina's wildlife resources and their habitats and provide programs and opportunities that allow hunters, anglers, boaters and other outdoor enthusiasts to enjoy wildlife-associated recreation.

History Note: Authority G.S. 113-134; 113-270.2; 113-276; 113-276.1; Eff. August 1, 2010.

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

(c) Bag limits shall be:

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

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

History Note: Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2002; Amendment Eff. August 1, 2002; Temporary Amendment Eff. September 1, 2003; Temporary Amendment Expired Eff. December 27, 2003; Amended Eff. August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 10B .0206 SQUIRRELS

(a) Open Seasons:

- (1) Gray and red squirrels may be taken by hunting on the Monday on or closest to October 15 to the last day of February.
- (2) Fox squirrels may be taken by hunting on the 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) The daily bag limit for gray and red squirrels is eight and there are no season and no possession limits.
- (2) In those counties listed in Subparagraph (a)(2) of this Rule, the daily bag limit for fox squirrels 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. August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2006; July 1, 1995; July 1, 1987; July 1, 1986; July 1, 1985.

15A NCAC 10B .0222 ARMADILLO

- (a) Open season. There is no closed season for taking armadillo by hunting.
- (b) Bag limits. There are no bag limit restrictions.

History Note: Authority G.S. 113-134; 113-291; 113-291.2; Eff. August 1, 2010.

15A NCAC 10B .0302 OPEN SEASONS

General. Following are the seasons for taking by trapping fur-bearing animals as defined in G.S. 113-129(7a), coyotes, armadillos, and groundhogs, 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. August 1, 2010; May 1, 2009; November 1, 2008; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005; August 1, 2004.

15A NCAC 10B .0402 TAGGING FURS

(a) Except as provided in Rule .0404 and .0405 of this Section, it is unlawful to transport or to buy, sell, barter, trade, or otherwise transfer possession or ownership of the carcass or pelt of any bobcat, otter or fox without having affixed to such carcass or pelt an individual tag provided by the North Carolina Wildlife Resources Commission. Each such tag shall bear a serial number. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this paragraph shall apply only to tagging foxes.

(b) It is unlawful for any person to import into this State the carcass or pelt of any otter or bobcat which has not been previously affixed with a tag required and supplied by the state in which the animal was taken. When the U.S. Fish and Wildlife

Service repeals its tagging requirements for otter and bobcat this Paragraph shall no longer apply.

History Note: Authority G.S. 113-134; 113-273; 113-276.1; 50 C.F.R. 23; 87 Stat. 884; Eff. November 14, 1978; Amended Eff. August 1, 2010; August 1, 2004; January 1, 1992; October 11, 1980; October 1, 1980.

NOTE: Italicized text was approved by the Rules Review Commission on April 16, 2009 and is awaiting legislative review in the 2010 session of the General Assembly based on the receipt of ten or more objections.

15A NCAC 10B .0404 TRAPPERS AND HUNTERS

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

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

- (1) A person may transport the same from the place of taking to his North Carolina residence and from his North Carolina residence to a fur tag agent or taxidermist's place of business.
- (2) A person may transport the same from the place of taking to the nearest place in this State where the appropriate tag may be obtained.
- (3) The carcass, pelt or mounted specimen is exempt from tagging requirements while in the taxidermist's place of business or after the mount is completed.
- (4) A licensed trapper may take live foxes during any legal trapping season, except foxes taken under G.S. 113-291.4, without tagging them and sell them to a licensed controlled hunting preserve for fox in accordance with G.S. 113-273(g).

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

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

(c) In any case where the taking of foxes with weapons or traps and the sale thereof is authorized by local legislation, except live foxes taken by licensed trappers who live-trap foxes for sale during any open season, ~~season or persons who take live foxes~~

~~pursuant to a depredation permit in accordance with Rule .0409 of this Section~~, the hunter or trapper taking any such fox shall, in the absence of a specific provision to the contrary, obtain and affix the carcass or pelt with a proper tag before selling or transferring the same to any other person, or transporting the same for any purpose than as authorized by Paragraph (a) of this Rule.

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. August 1, 2010; May 1, 2008; July 1, 1994; January 1, 1992; December 1, 1985; October 1, 1980.

15A NCAC 10B .0405 FUR DEALERS

(a) It is unlawful for any fur dealer licensed or otherwise authorized to deal in furs in this State, or any person or agent acting in his behalf, to buy or accept delivery from any person the carcass or pelt of any fox taken within the State which has not been previously affixed with a tag provided by the North Carolina Wildlife Resources Commission as required by this Section.

(b) It is unlawful for any fur dealer to import into this State the carcass or pelt of any otter or bobcat which has not been previously affixed with a tag required and supplied by the state in which the animal was taken. It is unlawful for any fur dealer, or agent of a fur dealer, to import into this State or to accept delivery of a carcass or pelt of any fox from a source located in any other state which does not by law or regulation require tagging of such carcasses or pelts, or a carcass or pelt of any fox which has not been tagged in accordance with the tagging requirements of the state from which it is imported, unless documentation of the date and hour of the arrival of such carcass or pelt at such fur dealer's place of business is available for inspection and such carcass or pelt is affixed with a fur tag provided by the North Carolina Wildlife Resources Commission within seven days after the date and hour of such arrival. No such carcass or pelt shall be resold or removed from such fur dealer's place of business without having been tagged as required by this Section. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.

(c) Any fur dealer or agent of a fur dealer authorized to do business in this State may import and accept delivery in this State of the carcass or pelt of any bobcat, otter or fox which has been affixed with a tag when and as required by the laws or regulations of the state from which such carcass or pelt is imported. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.

(d) Except as provided by Paragraph (b) of this Rule, it is unlawful for any fur dealer licensed to do business in this State to have in possession the carcass or pelt of any bobcat, otter or fox which has not been affixed with a fur tag provided by the North Carolina Wildlife Resources Commission or a tag required by the laws or regulations of the state from which the same was imported. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.

(e) Each fur dealer licensed to do business in this State shall maintain records of all acquisitions of carcasses and pelts of beaver, bobcat, mink, muskrat, nutria, opossum, otter, raccoon, skunk, weasel, and foxes. Such records shall consist of receipts, copies of receipts, or other written evidence of the transactions showing the sources and numbers of acquisition. Each fur dealer shall provide the Wildlife Resources Commission with monthly reports, made on forms supplied by the Commission, summarizing all acquisitions of carcasses and pelts of such animals, except those which have been acquired from and reported by other fur dealers licensed by the State. The reports shall include all such acquisitions made during each month beginning with October and ending with March of the following year; shall distinguish between acquisitions made within the State and those made from without the State; and, if acquired from within the State, shall indicate the counties in which the animals were taken. The report covering each month shall be mailed or delivered to the Commission on or before the 15th day of the next succeeding month. The records required by this Paragraph and the inventory of carcasses and pelts on hand shall be made available for inspection by any officer or representative of the Wildlife Resources Commission upon request at all reasonable times. In the case of nonresident fur dealers licensed to do business in this State, the records and reports required by this Paragraph apply only to carcasses or pelts of animals acquired from within this State, and no reports are required from nonresident fur dealers who acquire pelts only from other fur dealers licensed in the State.

(f) The tagging requirements of Paragraph (a) of Rule .0402 of this Section and of Paragraphs (b) and (d) of this Rule do not apply to the pelts or furs of foxes that are imported into this State by a fur dealer operating under a valid North Carolina Fur-Dealer Station License at a fixed place of business or to such pelts or furs delivered to the place of business of such fur dealer by a seller from another state provided that the following conditions are satisfied:

- (1) the nonresident seller is a licensed fur dealer in the state from which the pelts or furs originated;
- (2) the resident dealer has available for inspection a dated, signed bill of sale indicating the precise number of green pelts and dry pelts of fox purchased in each lot of imported fur; the name, address, and fur dealer license number of the seller; and the date of arrival of the lot of pelts at the licensed place of business;
- (3) imported green pelts of fox are kept separate from the green pelts of native fox during processing and are readily identifiable as to imported lot number and bill of sale;
- (4) imported dry pelts of fox are not batched with native dry pelts of fox unless such pelts are marked in a manner that readily identifies them as to imported lot number and bill of sale;
- (5) such imported, untagged pelts of fox are imported, processed, and stored only for sale and export to buyers in other states; and

- (6) such imported, untagged pelts of fox are not held on the premises for longer than 21 days from the date of arrival without having been tagged as required by Rule .0402(a) of this Section.

History Note: Authority G.S. 113-129; 113-134; 113-273; 113-291.3; 113-291.4; 50 C.F.R. 23; 87 Stat. 884; Eff. November 14, 1978; Amended Eff. August 1, 2010; January 1, 1992; December 1, 1981; August 1, 1981; February 2, 1981.

15A NCAC 10B .0406 MISUSE OF TAGS

(a) It is unlawful for any person to use or affix a fur tag which is valid for one season to the carcass or pelt of any bobcat, otter or fox taken or acquired during any subsequent season. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.

(b) It is unlawful for any person to affix any fur tag to the carcass or pelt of any species of animal other than that for which its use is authorized and it is unlawful to buy or sell any bobcat, otter or fox carcass or pelt which has an unauthorized tag so affixed. When the U.S. Fish and Wildlife Service repeals its tagging requirements for otter and bobcat this Paragraph shall apply only to tagging foxes.

(c) It is unlawful for any person to sell or transfer any unused fox tag to any other person. It is unlawful for any person to sell any unused fur tag for a price greater than the fee listed for such tag in Paragraph (c) of Rule .0403 of this Section.

(d) It is unlawful for any person to reuse a fur tag or to remove the same from the pelt to which affixed prior to delivery to a manufacturer or fur processor.

(e) It is unlawful to counterfeit or modify any fur tag.

History Note: Authority G.S. 113-134; 113-135; 113-135.1; 113-273; 113-276.1; 113-291.4; Eff. November 14, 1978; Amended Eff. August 1, 2010; January 1, 1992; December 1, 1981; October 1, 1980.

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. For the purposes of this Rule, artificial lure is defined as a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell. Natural bait is defined as any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell. The waters listed herein or in 15A NCAC 10D .0104 are designated as Public Mountain Trout Waters and further classified as Wild Trout Waters or Hatchery Supported Waters. For specific classifications, see Subparagraphs (1) through (6) of this Paragraph. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs (a)(1)(A) through (Y) are classified as

Hatchery Supported Public Mountain Trout Waters. Where specific watercourses or impoundments are listed, indentation indicates that the watercourse or impoundment listed is tributary to the next preceding watercourse or impoundment listed and not so indented. This classification applies to the entire watercourse or impoundment listed except as otherwise indicated in parentheses following the listing. Other clarifying information may also be included parenthetically. The tributaries of listed watercourses or impoundments are not included in the classification unless specifically set out therein.

(A) Alleghany County:

- New River (not trout water)
- Little River (Whitehead to McCann Dam)
- Brush Creek (except where posted against trespass)
- Big Pine Creek
- (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 County 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)

Wildcat Lake
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.]

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| <p>Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]</p> <p>Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]</p> <p>Boyde Coffey Lake</p> <p>Linville River [Land Harbor line (below dam) to Blue Ridge Parkway boundary line, except where posted against trespass]</p> <p>Milltimber Creek</p> <p>(D) Buncombe County:</p> <p style="padding-left: 20px;">French Broad River (not trout water)</p> <p style="padding-left: 40px;">Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)</p> <p style="padding-left: 40px;">Dillingham Creek (Corner Rock Creek to Ivy Creek)</p> <p style="padding-left: 40px;">Stony Creek</p> <p style="padding-left: 40px;">Corner Rock Creek (including tributaries, except Walker Branch)</p> <p style="padding-left: 20px;">Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)</p> <p style="padding-left: 20px;">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)</p> <p style="padding-left: 20px;">Bent Creek (headwaters to N.C. Arboretum boundary line, including portions of tributaries on game lands)</p> <p style="padding-left: 40px;">Lake Powhatan</p> <p style="padding-left: 20px;">Cane Creek (headwaters to SR 3138 bridge)</p> <p>(E) Burke County:</p> <p style="padding-left: 20px;">Catawba River (Muddy Creek to the City of Morganton water intake dam) [Special Regulations apply. See Subparagraph (a)(7) of this Rule.]</p> <p style="padding-left: 20px;">South Fork Catawba River (not trout water)</p> <p style="padding-left: 40px;">Henry Fork (lower South Mountains State Park line downstream to SR 1919 at Ivy Creek)</p> | <p>Jacob Fork (Shinny Creek to lower South Mountain State Park boundary) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]</p> <p>Johns River (not trout water)</p> <p>Parks Creek (portion not on game lands not trout water)</p> <p>Carroll Creek (game lands portion above SR 1405 including tributaries)</p> <p>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)</p> <p>(F) Caldwell County:</p> <p>Catawba River (not trout water)</p> <p>Johns River (not trout water)</p> <p>Wilson Creek (game lands portion downstream of Lost Cove Creek to Brown Mountain Beach dam, except where posted against trespass) [Delayed Harvest Regulations apply to game lands portion between Lost Cove Creek and Phillips Branch. See Subparagraph (a)(5) of this Rule.]</p> <p>Estes Mill Creek (not trout water)</p> <p>Mulberry Creek (portion not on game lands not trout water)</p> <p>Boone Fork [not Hatchery Supported trout water. See Subparagraph (a)(2) of this Rule.]</p> <p>Boone Fork Pond</p> <p>Yadkin River (Happy Valley Ruritan Community Park to SR 1515)</p> |
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- 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 (foot bridge in the US Forest Service Fires Creek Picnic Area to SR 1300)
 Tusquitee Creek (headwaters to lower SR 1300 bridge)
 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)
 Cheoah Reservoir
 Fontana Reservoir (not trout water)
 Stecoah 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 (Tom Creek to the first game land boundary upstream of Lake Logan) [Delayed Harvest Regulations apply to the portion from Queen Creek to the first game land boundary upstream of Lake Logan. See Subparagraph (a)(5) of this Rule.]
- (K) Henderson County:
 (Rocky) Broad River (Rocky River Lane 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.]
 Elijay Creek (except where posted against trespass, including portions of tributaries on game lands)
 Skitty Creek
 Cliffside Lake
 Cartoogechaye Creek (downstream 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 US Forest Service road 223)
 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 water)
 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 (Joels Creek to NC 108 bridge)
 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 (Glady Fork to French Broad River) [Delayed Harvest Regulations apply.]
- See Subparagraph (a)(5) of this Rule.]
Little River (confluence of Lake Dense outflow to 100 yards downstream of Hooker Falls) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
Middle Fork French Broad River
West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of tributaries within this section located on game lands)
- (W) Watauga County:
New River (not trout waters)
North Fork New River (from confluence with Maine and Mine branches to Ashe County line)
Maine Branch (headwaters to North Fork New River)
South New Fork River (not trout water)
Meat Camp Creek
Norris Fork Creek
Howard Creek (downstream from lower falls)
Middle Fork New River (Lake Chetola Dam to South Fork New River)
Yadkin River (not trout water)
Stony Fork (headwaters to Wilkes County line)
Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass)
Watauga River (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.]
Beech Creek
Buckeye Creek Reservoir
Coffee Lake
Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed

- tributary adjacent to the intersection of SR 1201 and SR 1203)
- Laurel Creek
- Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
- Dutch Creek (second bridge on SR 1134 to mouth)
- (X) Wilkes County:
- Yadkin River (not trout water)
- Roaring River (not trout water)
- East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) [Delayed Harvest Regulations apply to portion on Stone Mountain State Park. See Subparagraph (a)(5) of this Rule.]
- Stone Mountain Creek [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- Middle Prong Roaring River (headwaters to second bridge on SR 1736)
- Bell Branch Pond
- Boundary Line Pond
- West Prong Roaring River (not trout waters)
- Pike Creek
- Pike Creek Pond
- Cub Creek (0.5 miles upstream of SR 2460 bridge to SR 1001 bridge)
- Reddies River (Town of North Wilkesboro water intake dam to confluence with Yadkin River) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
- South Fork Reddies River (headwaters to confluence with Middle Fork Reddies River)
- North Fork Reddies River (Vannoy Creek) (headwaters
- to Union School bridge on SR 1559)
- Darnell Creek (North Prong Reddies River) (downstream ford on SR 1569 to confluence with North Fork Reddies River)
- Lewis Fork Creek (not trout water)
- South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
- Fall Creek (except portions posted against trespass)
- (Y) Yancey County:
- Nolichucky River (not trout water)
- Cane River [Bee Branch (SR 1110) to Bowlens Creek]
- Bald Mountain Creek (except portions posted against trespass)
- Indian Creek (not trout water)
- Price Creek (junction of SR 1120 and SR 1121 to Indian Creek)
- North Toe River (not trout water)
- South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All waters designated as Public Mountain Trout Waters on the game lands listed in Subparagraph (b)(2) of 15A NCAC 10D .0104, are classified as Wild Trout Waters unless specifically classified otherwise in Subparagraph (a)(1) of this Rule. The trout waters listed in this Subparagraph are also classified as Wild Trout Waters.
- (A) Alleghany County:
- Big Sandy Creek (portion on Stone Mountain State Park)
- 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 Hollow Branch (entire stream)
 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)
- (G) Cherokee County:
 Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
 Rockhouse Creek (entire stream)
- (H) Graham County:
 Franks Creek (entire stream) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 Little Buffalo Creek (entire stream)
 South Fork 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 (Glennville 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 Glennville 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 trout 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)
- (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/Artificial Flies Only waters. Only artificial flies having one single hook may be used. No trout 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 (headwaters to Upper Creek, including tributaries)
 Upper Creek (entire stream)
- (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 (game lands portion downstream of 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:
 Tuckasegee River (NC 107 bridge at Love Field Downstream to the Dillsboro dam)
- (G) 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)
- (B) Graham County:
Deep Creek
Long Creek (game land portion)
Franks Creek
- (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.

APPROVED RULES

- (B) Creel Limit. The daily creel limit is four trout. *History Note: Authority G.S. 113-272; 113-292; Eff. February 1, 1976;*
- (C) Size Limit. The minimum size limit is seven inches. *Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992;*
- (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). *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;*
- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise. *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. August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

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

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

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in.	ALL YEAR (exc. (3))
Hatchery Supported Trout Waters and undesignated waters	7 (exc. (3))	None (exc. (3))	All year, except March 1 to 7:00 a.m. on first Saturday in April (exc. (3))
Muskellunge	1	42 in.	ALL YEAR
Pickeral: 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. (21))	12 in. (excs (8,10&21))	ALL YEAR
Roanoke and Rock Bass	None (exc. (24))	None (exc. (24))	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 (Morone 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)
Shad: (American and hickory)	10 aggregate (exc. (22))	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	None	ALL YEAR

(excs. 14,20&23)

(excs. 14,20&23)

(exc. (7))

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam and in John H. Kerr Reservoir the creel limit on striped bass and Morone hybrids is two in the aggregate and the minimum size limit is 26 inches from October 1 through May 31. From June 1 through September 30 the daily creel limit on striped bass and Morone hybrids is four in aggregate with no minimum size limit.
- (2) In the Cape Fear River upstream of Buckhorn Dam and the Deep and Haw rivers to the first impoundment and in B. Everett Jordan Reservoir the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches. In Lake Gaston and Roanoke Rapids Reservoir the creel limit on striped bass and Morone hybrids is four in aggregate with a minimum size limit of 20 inches from October 1 through May 31 and no minimum size limit from June 1 through September 30. In Lake Norman the creel limit on striped bass and Morone hybrids is four in aggregate with a minimum size limit of 16 inches from October 1 through May 31 and no minimum size limit from June 1 through September 30.
- (3) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from 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.
- (4) On Mattamuskeet Lake, special federal regulations apply.
- (5) In the inland fishing waters of Neuse, Pungo and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95, subject to the exceptions listed in this Paragraph, the daily creel limit for striped bass and their hybrids is two fish in aggregate. The minimum length limit is 18 inches and no striped bass or striped bass hybrids between the lengths of 22 inches and 27 inches may be possessed. In these waters, the season for taking and possessing striped bass is closed from May 1 through September 30. In the inland fishing waters of the Cape Fear River and its tributaries, the

- (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 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. In Lake Norman the minimum size limit for black bass is 14 inches.
- (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 are 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 possessed 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 possessed.
- (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) 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 applies to smallmouth bass less than 14 inches in length in this section of New River.

- (22) 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. In Roanoke Rapids Reservoir, Lake Gaston and John H. Kerr Reservoir, no American shad may be possessed.
- (23) In Lake Norman and Badin Lake the daily creel limit for blue catfish greater than 32 inches in length is one fish.
- (24) In all public fishing waters east of Interstate 77, the minimum length for Roanoke and rock bass is 8 inches and the daily creel limit is two fish in aggregate.

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. August 1, 2010; 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 is 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 Reservoir and Lake Wylie, 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 is 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 Warren 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 this Rule 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. August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

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

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

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length (except in Lake Waccamaw where there is no length limitation) and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net;
- (4) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, and which are under the immediate control and attendance of the individual operating them;
- (5) a hand-held line with a single bait attached;
- (6) a single, multiple-bait line for taking crabs not to exceed 100 feet in length, marked on each end with a solid float no less than five inches in diameter, bearing legible and indelible identification of the user's name and address, and under the immediate control and attendance of the person using the device; with a limit of one line per person and no more than one line per vessel; or
- (7) a collapsible crab trap with the largest open dimension not greater than 18 inches and which by design is collapsed at all times when in the water, except when it is being retrieved or lowered to the bottom, with a limit of one trap per person.

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

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

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

- (1) No more than 50 eels, none of which may be less than six inches in length, shall be taken or possessed from inland fishing waters;
- (2) No herring (alewife and blueback) that are greater than six inches in length shall be taken or possessed from the inland fishing waters of coastal rivers and their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Rocky Mount Mill Dam, Neuse River downstream of Milburnie Dam, Cape Fear River downstream of Buckhorn Dam, Pee Dee River downstream of Blewett Falls Dam, the entire Lumber River

including Drowning Creek, and in all other inland fishing waters east of Interstate 95; and

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

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

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

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

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

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

Eff. February 1, 1976;

Amended Eff. July 1, 2000; July 1, 1998; July 1, 1993; July 1, 1992; May 1, 1992; July 1, 1989;

Temporary Amendment Eff. July 1, 2001;

Amended Eff. July 18, 2002;

Temporary Amendment Eff. June 1, 2003;

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

Amended Eff. August 1, 2010; May 1, 2008; May 1, 2007; May 1, 2006.

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 does 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 participate 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) is a disabled sportsman as defined in Paragraph (k) of this Rule or holds a Disabled Access Program Permit as described in Paragraph (n) of this Rule and is abiding by the rules described in Paragraph (n).

(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.

On game lands where the privileges described in Paragraph (n) of this Rule apply, participants in the program may operate electric wheel chairs, all terrain vehicles or other passenger vehicles:

- (1) on ungated or open-gated roads normally closed to vehicular traffic; and
- (2) on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel.

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, domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes, or feral animals, 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. Disabled persons as defined in Paragraph (k) of this Rule and people who have obtained a Disabled Access Program permit are exempt from the previous sentence but must comply with the terms of their permit. Furthermore, disabled persons, as defined under the federal Americans with Disabilities Act, may use wheelchairs or other mobility devices designed for indoor pedestrian use on any area where foot travel is allowed.

(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 any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel and 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, or parts thereof, where

this Paragraph applies are 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 is unlawful for anyone other than disabled persons as defined in Paragraph (k) of this Rule and 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" is 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 shall 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. August 1, 2010; 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 does 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

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- 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 is prohibited.
- (8) Brunswick County Game Land in Brunswick County
- (A) Hunting is by permit only.
- (B) The use of dogs for hunting deer is prohibited.
- (9) Buckhorn Game Land in Orange County
- (A) Hunting is by permit only.
- (B) Horseback riding 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.
- (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 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 does 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.
- (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 permit-only for 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 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 except that portion of Chowan Swamp Game Land in Gates County that is east of Highway 158/13, south of Highway 158, west of Highway 32, and north of Catherine Creek and the Chowan River where the bear season is the same as the season dates for the Gates County bear season.
 - (D) Camping is restricted to September 1 through the last day of February and April 7 through May 14 in areas both designated and posted as camping areas.
- (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.
 - (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 are 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 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 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;
 - (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 to 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 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 may 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 all the 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 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 does 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
- (C) Camping is restricted to September 1 through the last day of February and April 7 through May 14 in areas both designated and posted as camping areas.
- (43) Kerr Scott Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Use of centerfire rifles is 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 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 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.

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- (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.
- (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.
- (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 is 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 is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
- (61) Pond 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 is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (62) Pungo River Game Land in Hyde County
 - (A) Six Days per Week Area

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- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (63) Rhodes Pond Game Land in Cumberland and Harnett counties
- (A) Hunting is by permit only.
- (B) Swimming is prohibited on the area.
- (64) Roanoke River Wetlands in Bertie, Halifax, Martin and Northampton counties
- (A) Hunting is by Permit only.
- (B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.
- (C) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas, 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.
- (65) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- (66) Robeson Game Land in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (67) Rockfish Creek Game Land in Hoke County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the 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.
- (68) Rocky Run Game Land in Onslow County: Hunting is by permit only.
- (69) 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.
- (70) 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 is 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 permit-only for all quail and woodcock hunting and dog training on birds: In Richmond County: that part east of US 1; In Scotland County: that part west of SR 1328 and north of Gardner Farm Lane and that part east of SR 1328 and north of Scotland Lake Lane.
 - (I) Horseback riding on field trial grounds from October 22 through March 31 is 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.
- (71) 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 is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
- (72) Sandy Mush Game Land in Buncombe and Madison counties.
- (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) 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.
 - (D) Dogs shall only be trained on Mondays, Wednesdays and Saturdays and only as allowed in 15A NCAC 10D .0102(e).
 - (E) Dove hunting is by permit only from the opening day through the second Saturday of dove season.
- (73) Second Creek Game Land in Rowan County- hunting is by permit only.
- (74) 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 is prohibited.
- (75) 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.
 - (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.
- (76) 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.
- (77) 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.
- (78) 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.
- (79) Tar River Game Land in Edgecombe County – hunting is by permit only.
- (80) 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 is prohibited.
- (81) 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. 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 through August 31. After 14 consecutive days of camping all personal belongings must be removed from the game land.
- (82) 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 is prohibited.
 - (D) The use of dogs for hunting deer is prohibited.
 - (E) Wild turkey hunting is by permit only.
- (83) 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 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.
- (84) 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.
- (85) 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.
- (86) 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.
- (87) 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 and Morton Tracts have the following restrictions:
 - (i) Access on Hargett Avenue and Sloan Farm Road 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.
- (88) Whitehall Plantation Game Land in Bladen County
- (A) Hunting and trapping is by permit only
 - (B) Camping is restricted to September 1 through the last day of February and April 7 through May 14 in areas both designated and posted as camping areas.

(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 are nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperater 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 shall be identified on each permit. If the hunt has a limited weapon choice, the allowed weapons will be clearly stated on each permit.

(n) As used in this Rule, horseback riding includes all equine species.

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. August 1, 2010; 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, Green River downstream of the natural gas pipeline crossing, and Spring Creek below US Forest Service road 223.

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. August 1, 2010; May 1, 2009; August 1, 2004.

15A NCAC 10E .0101 DEFINITION

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

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

Eff. February 1, 1976;

Amended Eff. August 1, 2010.

15A NCAC 10E .0102 REGULATIONS POSTED

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

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

Eff. February 1, 1976;

Amended Eff. August 1, 2010; April 15, 1979.

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 Rule 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 Rule 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 Rule, "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 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.

(h) It is unlawful to feed or release animals or birds, domesticated animals and feral animals on public fishing or boating access areas without prior written authorization of the Wildlife Resources Commission. For the purpose of enforcing this Paragraph, "domesticated animals" does not include pets under the control of the owner and raptors or hunting dogs where otherwise permitted for hunting or training purposes.

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

Eff. February 1, 1976;

Amended Eff. August 1, 2010; May 1, 2009; July 1, 1995; February 1, 1994; September 1, 1992; July 1, 1991.

15A NCAC 10F .0332 ALEXANDER COUNTY

(a) Regulated Area. This Rule applies to those waters of Lake Hickory set out in this Rule which are located in Alexander County.

- (1) the waters beginning 50 yards from the southeast end of the Rink Dam Marina and ending at Rink Dam;
- (2) the waters within 50 yards of the Taylorsville Beach Marina;
- (3) the waters within 50 yards of the R&N Marina; and
- (4) the waters within 50 yards of the Lakeside Marina.

(b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within 50 yards of any public boat launching ramp or while on the waters of any regulated areas designated in Paragraph (a) of this Rule.

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

History Note: Authority G.S. 75A-3; 75A-15;

Eff. March 25, 1979;

Amended Eff. February 1, 1995; February 1, 1987;

Temporary Amendment Eff. April 1, 2000;

Amended Eff. May 1, 2010; July 1, 2000;

15A NCAC 10F .0339 MCDOWELL COUNTY

(a) Regulated Areas. This Rule applies to the following waters located on Lake James in McDowell County, as designated by the United States Aids to Navigation system:

- (1) that area adjacent to the shoreline of the McDowell Wildlife Club property;
- (2) that area adjacent to the shoreline of the Marion Moose Club property;
- (3) that area known as Morgan Cove;
- (4) that area within 50 yards of the shoreline at the New Manna Baptist Youth Camp;
- (5) that area within 50 yards of the shoreline at Burnett's Landing;
- (6) the cove area adjacent to the State Park swimming area;
- (7) the cove area adjacent to the State Park picnic area and dock;
- (8) that area within 50 yards of camping areas in the Lake James State Park;
- (9) that area within 50 yards of the boat launching ramp at the Marion Lake Club;
- (10) that area within 50 yards in either direction from the marina docks in Plantation Point Cove;

- (11) that area of Goodman's Landing Cove within 50 yards of the swimming area and boat docks of Goodman's Campground;
- (12) that area beginning at the rock shoals located at Deerfield Campground downstream for a distance of approximately 200 yards;
- (13) that area along the shoreline of the development known as Lakeview Pointe;
- (14) that area at the Waterglyn Subdivision Cove;
- (15) that area at the North Fork of the Catawba River where it enters Lake James;
- (16) that area within 50 yards of the Bear Creek Marina; and
- (17) that cove which is bounded by Waterglyn Subdivision to the west beginning at the point of the shoreline known as the Island and extending in a straight line eastward to the boundary between the Carrier and Finger property within Lakeview Shores Subdivision.

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

(c) **Restricted Swimming Areas.** No person operating or responsible for the operation of any vessel, surfboard or waterskis shall permit the same to enter any marked swimming area located on the regulated area.

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

History Note: Authority G.S. 75A-3; 75A-15; Eff. August 23, 1981; Amended Eff. February 1, 1996; December 1, 1993; March 1, 1992; April 1, 1991; Temporary Amendment Eff. February 1, 1998; Amended Eff. July 1, 1998; Temporary Amendment Eff. February 4, 2000; April 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. May 1, 2001; Amended Eff. May 1, 2010; July 1, 2008; July 18, 2002.

15A NCAC 10H .0101 LICENSE TO OPERATE

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

they have this land under lease for the duration of the license period.

(b) Controlled hunting preserve operators who release birds must report for the time period of the license the numbers of birds released by species and the counties where those birds were released using a reporting mechanism supplied by the Commission in order to renew their licenses.

History Note: Authority G.S. 113-134; 113-273; Eff. February 1, 1976; Amended Eff. August 1, 2010; May 1, 2008; July 1, 1994; November 1, 1990; July 1, 1988; July 1, 1987.

15A NCAC 10H .0104 QUALITY OF BIRDS RELEASED

All birds purchased or raised for release on hunting preserves shall be healthy and free from disease. Possession of unhealthy or diseased birds is grounds for revocation or denial of a controlled hunting preserve license.

History Note: Authority G.S. 113-134; 113-273; Eff. February 1, 1976; Amended Eff. August 1, 2010; June 1, 2005; November 1, 1990.

15A NCAC 10H .0301 GENERAL REQUIREMENTS

(a) **Captivity Permit or License Required**

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

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

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

tailed deer fawns and are available only to individuals recognized by the Commission as white-tailed deer fawn rehabilitators.

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

(c) Captivity License.

- (1) The purpose of captivity license is to provide humane treatment for wild animals or wild birds that are unfit for release. For purposes of this Rule, wild animals are considered "unfit" if they are incapacitated by injury or otherwise; if they are a non-native species that poses a risk to the habitat or to other species in that habitat; or if they have been rendered tame by proximity to humans to the extent that they cannot feed or care for themselves without human assistance. Persons interested in obtaining a captivity license shall contact the Commission for an application.
- (2) Denial of captivity license. Circumstances or purposes for which a captivity license shall not be issued include the following:
 - (A) For the purpose of holding a wild animal or wild bird that was acquired unlawfully.
 - (B) For the purpose of holding the wild animal or wild bird as a pet. For purposes of this Rule, the term "pet" means an animal kept for amusement or companionship. The term shall not be construed to include cervids held in captivity for breeding for sale to another licensed operator.
 - (C) For the purpose of holding wild animals or wild birds for hunting in North Carolina.
 - (D) For the purpose of holding wild turkey or black bear.
 - (E) For the purpose of holding deer, elk or any other member of the family Cervidae, except current licenses which may be renewed as specified in Subparagraph (6) of this Paragraph.
- (3) Required Facilities. No captivity license shall be issued until the applicant has constructed or acquired a facility for keeping the animal or bird in captivity that complies with the standards set forth in Rule .0302 of this

Section and the adequacy of such facility has been verified on inspection by a representative of the Commission.

(4) Term of License

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

(5) Holders of Captivity License for cervids.

- (A) Inspection of records. The licensee shall make all records pertaining to tags, licenses or permits issued by the Commission available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of Chronic Wasting Disease (CWD) is suspected or confirmed within five miles of the facility or within the facility itself.
- (B) Inspection. The licensee shall make all enclosures at each licensed facility and the record-book(s) documenting required monitoring of the outer fence of the enclosure(s) available for inspection by the Commission at any time during normal business hours, or at any time an outbreak of CWD is suspected or confirmed within five miles of the facility or within the facility itself.
- (C) Fence Monitoring Requirement. The fence surrounding the enclosure shall be inspected by the licensee or licensee's agent once a week during normal weather conditions to verify its stability and to detect the existence of any conditions or activities that threaten its stability. In the event of severe weather or any other condition

- that presents potential for damage to the fence, inspection shall occur every three hours until cessation of the threatening condition, except that no inspection is required under circumstances that threaten the safety of the person conducting the inspection.
- (D) A record-book shall be maintained to record the time and date of the inspection, the name of the person who performed the inspection, and the condition of the fence at time of inspection. The person who performs the inspection shall enter the date and time of detection and the location of any damage threatening the stability of the fence. If damage has caused the fence to be breachable, the licensee shall enter a description of measures taken to prevent ingress or egress by cervids. Each record-book entry shall bear the signature or initials of the licensee attesting to the veracity of the entry. The record-book shall be made available to inspection by a representative of the Commission upon request during normal business operating hours.
- (E) Maintenance. Any opening or passage through the enclosure fence that results from damage shall, within one hour of detection, be sealed or otherwise secured to prevent a cervid from escape. Any damage to the enclosure fence that threatens its stability shall be repaired within one week of detection.
- (F) Escape. When a licensee discovers the escape of any cervid from the facility, the licensee or designee shall report within 24 hours the escape to the Commission. If possible, the escaped cervid shall be recaptured alive. If live recapture is not possible, the licensee shall request a wildlife take permit and take the escaped cervid pursuant to the terms of the permit. A recaptured live cervid shall be submitted to the Commission for CWD testing using a test recognized by the Southeastern Cooperative Wildlife Disease Study unless the executive director determines that the risk of CWD transmission as a result of this escape is negligible based upon:
- (i) amount of time the escaped cervid remained out of the facility;
 - (ii) proximity of the escaped cervid to wild populations;
 - (iii) known susceptibility of the escaped cervid species to CWD;
 - (iv) nature of the terrain in to which the cervid escaped.
- (G) Chronic Wasting Disease (CWD)
- (i) Detection. Each licensee shall notify the Commission within 24 hours if any cervid within the facility exhibits clinical symptoms of CWD or if a quarantine is placed on the facility by the State Veterinarian. All captive cervids that exhibit symptoms of CWD shall be tested for CWD.
 - (ii) Cervid death. The carcass of any captive cervid that was six months or older at time of death shall be transported and submitted by the licensee or his designee to a North Carolina Department of Agriculture diagnostic lab for CWD evaluation within 48 hours of the cervid's death, or by the end of the next business day, whichever is later. Ear tags distributed by the Commission and subsequently affixed to the cervids as required by this Rule, may not be removed from the cervid's head prior to submitting the head for CWD evaluation.
 - (iii) The Commission shall require testing or forfeiture of cervids from a facility holding cervids in this state should the following circumstances or conditions occur:
 - (I) The facility has transferred a cervid that is received by a facility in which CWD is confirmed within five years of the cervid's transport date and that transferred

cervid has tested positive for CWD or the test for CWD was inconclusive or the transferred cervid was no longer available for testing.

(II) The facility has received a cervid that originated from a facility in which CWD has been confirmed within five years of the cervid's transport date and that received cervid has tested positive for CWD or the test for CWD was inconclusive or the received cervid was no longer available for testing.

(H) Tagging Required. Effective upon receipt of tags from the Commission, each licensee shall implement the tagging requirement using only the tags provided by the Commission as follows:

- (i) All cervids born within a facility shall be tagged by March 1 following the birthing season each year.
- (ii) All cervids transferred to a facility shall be tagged within five days of the cervid's arrival at the licensee's facility. However, no cervids shall be transported from one facility to another unless both sending and receiving herds are certified according to 15A NCAC 10H .0304.

(I) Application for Tags.

(i) Application for tags for calves and fawns. Application for tags for cervids born within a facility shall be made by the licensee by December 1 following the birthing season of each year. The licensee shall provide the following information, along with a statement and licensee's

signature verifying that the information is accurate:

- (I) Applicant name, mailing address, and telephone number;
- (II) Facility name and site address;
- (III) Captivity license number;
- (IV) Species of each cervid; and
- (V) Birth year of each cervid.

(ii) Application for tags for cervids that were not born at the facility site shall be made by written request for the appropriate number of tags along with the licensee's application for transportation of the cervid, along with a statement and licensee's signature verifying that the information is accurate. These tag applications shall not be processed unless accompanied by a completed application for transportation. However, no transportation permits shall be issued nor shall cervids be transported from one facility to another unless both sending and receiving herds are certified according to 15A NCAC 10H .0304.

(J) Placement of Tags.

(i) A single button ear tag provided by the Commission shall be permanently affixed by the licensee onto either the right or left ear of each cervid, provided that the ear chosen to bear the button tag shall not also bear a bangle tag, so that each ear of the cervid bears only one tag.

(ii) A single bangle ear tag provided by the Commission shall be permanently affixed by the licensee onto the right or left ear of each cervid except Muntjac deer, provided that the ear bearing the bangle tag does not also bear the button tag, so that each ear of the cervid bears only one tag. Muntjac deer

- are not required to be tagged with the bangle tag.
- (iii) Once a tag is affixed in the manner required by this Rule, it shall not be removed.
- (K) Reporting Tags Requirement. For all cervids, except calves and fawns, the licensee shall submit a Cervidae Tagging Report within 30 days of receipt of the tags. Cervidae Tagging Reports for calves and fawns shall be submitted by March 1 following the birthing season each year. A Cervidae Tagging Report shall provide the following information and be accompanied by a statement and licensee's signature verifying that the information is accurate:
 - (i) Licensee name, mailing address, and telephone number;
 - (ii) Facility name and site address, including the County in which the site is located;
 - (iii) Captivity license number;
 - (iv) Species and sex of each cervid;
 - (v) Tag number(s) for each cervid; and
 - (vi) Birth year of each cervid.
- (L) Replacement of Tags. The Commission shall replace tags that are lost or unusable and shall extend the time within which a licensee shall tag cervids consistent with time required to issue a replacement.
 - (i) Lost Tags. The loss of a tag shall be reported to the Commission by the licensee and application shall be made for a replacement upon discovery of the loss. Application for a replacement shall include the information required by Part (c)(5)(I) of this Rule along with a statement and applicant's signature verifying that the information is accurate. Lost tags shall be replaced on the animal by the licensee within 30 days of receipt of the replacement tag.
 - (ii) Unusable Tags. Tags that cannot be properly affixed to the ear of a cervid or that cannot be read because of malformation or damage to the tags or obscurement of the tag numbers shall be returned to the Commission along with an application for a replacement tag with a statement and applicant's signature verifying that the information in the application is accurate.
- (6) Renewal of captivity license for cervids. Existing captivity licenses for the possession of cervids at existing facilities shall be renewed as long as the applicant for renewal has live cervids and continues to meet the requirements of this Section for the license. Only licensees with Certified Herds, as defined in 15A NCAC 10H .0304, may request in their renewal applications to expand pen size or the number of pens on the licensed facility to increase the holding capacity of that facility. No renewals shall be issued for a license that has been allowed to lapse due to the negligence of the former licensee.
- (7) Provision for licensing the possession of cervids in an existing facility. A captivity license shall only be issued to an individual who is 18 years of age or older. If the licensee of an existing facility voluntarily surrenders his or her captivity license, becomes incapacitated or mentally incompetent, or dies, a person who has obtained lawful possession of the facility from the previous licensee or that licensee's estate, may request that the existing captivity license be transferred to him or her to operate the existing facility. Any license transferred under this provision shall be subject to the same terms and conditions imposed on the original licensee at the time of his or her surrender or death and shall be valid only for the purpose of holding the cervids of the existing facility within that existing facility. In addition, any actions pending from complaint, investigation or other cause shall be continued notwithstanding the termination of the original license.
- (d) Nontransferable. No license or permit or tag issued pursuant to this Rule is transferable, either as to the holder or the site of a holding facility, except as provided in Subparagraph (c)(7) of this Rule.
- (e) Sale, Transfer or Release of Captive Wildlife.
 - (1) It is unlawful for any person to transfer or receive any wild animal or wild bird that is being held under a captivity permit issued under Paragraph (b) of this Rule, except that any such animal or bird may be surrendered to an agent of the Commission.

- (2) It is unlawful for any person holding a captivity license issued under Paragraph (c) of this Rule to sell or transfer the animal or bird held under such license, except that such animal or bird may be surrendered to an agent of the Commission, and any such licensee may sell or transfer the animal or bird (except members of the family Cervidae) to another person who has obtained a license to hold it in captivity. For animals in the family Cervidae, sale or transfer of animals is allowed only between Certified Herds, as defined in 15A NCAC 10H .0304. Upon such a sale or transfer, the seller or transferor shall obtain a receipt for the animal or bird showing the name, address, and license number of the buyer or transferee, a copy of which shall be provided to the Commission.
- (3) It is unlawful for any person to release into the wild for any purpose or allow to range free:
 - (A) any species of deer, elk or other members of the family Cervidae, or
 - (B) any wolf, coyote, or other non-indigenous member of the family Canidae, or
 - (C) any member of the family Suidae.

(f) Transportation Permit.

- (1) Except as otherwise provided herein, no transportation permit is required to move any lawfully held wild animal or wild bird within the State.
- (2) No person shall transport black bear or Cervidae for any purpose without first obtaining a transportation permit from the Commission.
- (3) Except as provided in Subparagraph (f)(4) of this Rule, no transportation permits shall be issued for deer, elk, or other species in the family Cervidae except into and between Certified Herds as defined in 15A NCAC 10H .0304.
- (4) Cervid Transportation. A permit to transport deer, elk, or other species in the family Cervidae may be issued by the Commission to an applicant for the purpose of transporting the animal or animals for export out of state, to a slaughterhouse for slaughter, from a Certified Herd to another Certified Herd as defined in 15A NCAC 10H .0304, or to a veterinary medical facility for treatment provided that the animal for which the permit is issued does not exhibit clinical symptoms of Chronic Wasting Disease. No person shall transport a cervid to slaughter or export out of state without bearing a copy of the transportation permit issued by the Commission authorizing that transportation. No person shall transport a cervid for veterinary treatment without having obtained approval from the Commission as

provided by Part (f)(4)(D) of this Rule. Any person transporting a cervid shall present the transportation permit to any law enforcement officer or any representative of the Commission upon request, except that a person transporting a cervid by verbal authorization for veterinary treatment shall provide the name of the person who issued the approval to any law enforcement officer or any representative of the Commission upon request.

- (A) Slaughter. Application for a transportation permit for purpose of slaughter shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:
 - (i) Applicant name, mailing address, and telephone number;
 - (ii) Facility site address;
 - (iii) Captivity license number;
 - (iv) Name, address, county and phone number of the slaughter house to which the cervid will be transported;
 - (v) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (vi) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
 - (vii) Date of transportation;
 - (viii) Species and sex of each cervid; and
 - (ix) Tag number(s) for each cervid.
- (B) Exportation. Nothing in this rule shall be construed to prohibit the lawful exportation of a member of the family Cervidae for sale out of state. Application for a transportation permit for purpose of exportation out of state shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:
 - (i) Applicant's name, mailing address and telephone number;

- (ii) Facility site address;
 - (iii) Captivity license number;
 - (iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (v) Name, site address, county, state and phone number of the destination facility to which the cervid is exported;
 - (vi) A copy of the importation permit from the state of the destination facility that names the destination facility to which the animal is to be exported;
 - (vii) Date of departure;
 - (viii) Species and sex of each cervid; and
 - (ix) Tag number(s) for each cervid.
- (C) Between herds. Application for a transportation permit for purpose of moving a cervid from one Certified Herd to another Certified Herd, as defined in 15A NCAC 10H .0304, shall be submitted in writing to the Commission and shall include the following information along with a statement and applicant's signature verifying that the information is accurate:
- (i) Applicant's name, mailing address and telephone number;
 - (ii) Facility site address;
 - (iii) Captivity license number;
 - (iv) Vehicle or trailer license plate number and state of issuance of the vehicle or trailer used to transport the cervid;
 - (v) Name, site address, county, and phone number of the destination facility to which the cervid is moved;
 - (vi) Date of departure;
 - (vii) Species and sex of each cervid; and
 - (viii) Tag number(s) for each cervid.
- (D) Veterinary treatment. No approval shall be issued for transportation of a cervid to a veterinary clinic out of the state of North Carolina, or for transportation from a facility out of the state of North Carolina to a veterinary clinic in North Carolina.

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

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

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

- (1) Applicant name, mailing address, and telephone number;
- (2) Facility site address;
- (3) Captivity license number;
- (4) Name and location of the North Carolina Department of Agriculture Diagnostic lab where the head of the cervid is to be submitted for CWD testing;
- (5) Date of slaughter;
- (6) Species and sex of each cervid; and
- (7) Tag number(s) for each cervid.

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

History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274; Eff. February 1, 1976; Amended Eff. April 1, 1991; September 1, 1990; June 1, 1990; July 1, 1988; Temporary Amendment Eff. October 8, 2002; May 17, 2002(this temporary rule replaced the permanent rule approved by RRC on June 21, 2001 to become effective in July 2002); July 1, 2001; Amended Eff. May 1, 2010; May 1, 2008; December 1, 2005; August 1, 2004.

15A NCAC 10H .0302 MINIMUM STANDARDS

(a) Exemptions. Publicly financed zoos, scientific and biological research facilities, and institutions of higher education that were granted an exemption by the Commission from the standards of this Rule prior to December 1, 2005 are exempt from the standards set forth in this Rule for all birds and animals except the black bear so long as the captivity license in effect on that date has not expired or been revoked.

(b) With the exception of those entities named in Paragraph (a) of this Rule who have received exemption from the Commission, all holders of captivity licenses shall comply with the following requirements:

- (1) Deer, Elk and other species of the family Cervidae
 - (A) Enclosure. The enclosure shall be on a well-drained site containing natural or manmade shelter for shade. The minimum size of the enclosure for all cervids except Muntjac deer shall be not less than one-half acre for the first three animals and an additional one-fourth acre for each additional animal held provided that no more than 25 percent shall be covered with water. At no time shall the number of cervids in the enclosure exceed the

number allowed by the captivity license, except that fawns and calves shall not count towards the total number of cervids in a facility from the time they are born until March 1 of the following year. The enclosure shall be surrounded by a fence of sufficient strength and design to contain the animal under any circumstances, at least eight feet high, and dog-proof to a height of at least six feet. For enclosures exclusively holding Muntjac deer, the minimum pen size shall be 800 square feet for the first three animals and 200 square feet for each additional animal. No exposed barbed wire, nails, or other protrusions that may cause injury to the animal shall be permitted within the enclosure. Captive cervids shall not be contained within or allowed to enter a place of residence.

(B) Sanitation and Care. Licensees shall provide an ample supply of clear water and salt at all times. Food shall be placed in the enclosure as needed, but not less than three times weekly. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. The animal(s) shall be protected against fright or harm from other animals.

(2) Wild Boars

(A) Enclosure. The enclosure shall be on a site containing trees or brush for shade. The minimum size of the enclosure shall be not less than one-half acre for the first three animals and an additional one-fourth acre for each additional animal held. The enclosure shall be surrounded by a fence at least five feet high and of sufficient strength to contain the animals. No exposed barbed wire or protruding nails shall be permitted within the enclosure. A roofed building large enough to provide shelter in both a standing or a lying position for each boar must be provided. This building shall be closed on three sides. A pool of water for wallowing or a sprinkler system shall be provided on days when heat could cause stress to the animal(s).

(B) Sanitation and Care. Licensees shall provide an ample supply of clear water at all times. Food shall be

placed in the enclosure as needed, but in any case, not less than three times weekly. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained.

(3) Wild Birds

(A) Enclosure. The enclosure shall be large enough for the bird or birds to assume all natural postures. The enclosure shall be designed in such a way that the birds cannot injure themselves and are able to maintain a natural plumage. Protection from sun, weather, and predators shall also be provided.

(B) Sanitation and Care. The cage shall be kept clean, dry, and free from molded or damp feed. Ample food and clean water shall be available at all times.

(4) Alligators

(A) Enclosure. The enclosure shall be surrounded by a fence of sufficient strength to contain the animals and that shall prevent contact between the observer and alligator. The enclosure shall contain a pool of water large enough for the animal to completely submerge itself. If more than one animal is kept, the pool must be large enough for all animals to be able to submerge themselves at the same time. A land area with both horizontal dimensions at least as long as the animal shall also be provided. In case of more than one animal, the land area shall have both horizontal dimensions at least as long as the longest animals to occupy the land area at the same time without overlap.

(B) Sanitation and Care. The water area shall be kept clean and food adequate to maintain good health provided. Protection shall be provided at all times from extremes in temperature that could cause stress to the animal.

(5) Black Bear

(A) Educational Institutions and Zoos Operated or Established by Governmental Agencies

(i) Enclosure. A permanent, stationary metal cage, at least eight feet wide by 12 feet long by six feet high and located in the shade or where shaded during the afternoon hours of summer, is required. The cage shall

have a concrete floor in which a drainable pool one and one-half feet deep and not less than four by five feet has been constructed. The bars of the cage shall be of iron or steel at least one-fourth inch in diameter, or heavy gauge steel chain link fencing may be used. The gate shall be equipped with a lock or safety catch, and guard rails shall be placed outside the cage so as to prevent contact between the observer and the caged animal. The cage must contain a den at least five feet long by five feet wide by four feet high and so constructed as to be easily cleaned. A "scratch log" shall be placed inside the cage. The cage shall be equipped with a removable food trough. Running water shall be provided for flushing the floor and changing the pool.

(ii) Sanitation and Care. Food adequate to maintain good health shall be provided daily; and clean, clear drinking water shall be available at all times. The floor of the cage and the food trough shall be flushed with water and the water in the pool changed daily. The den shall be flushed and cleaned at least once each week in hot weather. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. Brush, canvas, or other material shall be placed over the cage to provide additional shade when necessary for the health of the animal. The use of collars, tethers or stakes to restrain the bear is prohibited, except as a temporary safety device.

(B) Conditions Simulating Natural Habitat. Black bears held in captivity by other than educational institutions

or governmental zoos shall be held without caging under conditions simulating a natural habitat. All of the following conditions must exist to simulate a natural habitat in a holding facility:

- (i) The method of confinement is by chain link fence, wall, moat, or a combination of such, without the use of chains or tethers.
- (ii) The area of confinement is at least one acre in extent for one or two bears and an additional one-eighth acre for each additional bear.
- (iii) Bears are free, under normal conditions, to move throughout such area.
- (iv) At least one-half of the area of confinement is wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind.
- (v) The area of confinement contains a pool not less than one and one-half feet deep and not less than four by five feet in size.
- (vi) Provision is made for a den for each bear to which the bear may retire for rest, shelter from the elements, or respite from public observation.
- (vii) The area of confinement presents an overall appearance of a natural habitat and affords the bears protection from harassment or annoyance.
- (viii) Provisions are made for food and water that are adequate to maintain good health and for maintenance of sanitation.
- (ix) The applicant shall document that the applicant owns or has a lease of the real property upon which the holding facility is located, provided that if the applicant is a lessee, the lease is for a duration of at least five years from the point of stocking the facility.

(6) Cougar

(A) Educational or scientific research institutions and zoos supported by public funds.

- (i) Enclosure. A permanent, stationary metal cage, at least nine feet wide by 18 feet long by nine feet high and located in the shade or where shaded during the afternoon hours of summer, is required. The cage shall have a concrete floor. The bars of the cage shall be of iron or steel at least one-fourth inch in diameter, or heavy gauge steel chain link fencing may be used. The gate shall be equipped with a lock or safety catch, and guard rails shall be placed outside the cage so as to prevent contact between the observer and the caged animal. The cage shall contain a den at least five feet long by five feet wide by four feet high and so constructed as to be easily cleaned. A "scratch log" shall be placed inside the cage. The cage shall be equipped with a removable food trough. Running water shall be provided for flushing the floor and changing the pool.

- (ii) Sanitation and Care. Food adequate to maintain good health shall be provided daily; and clean, clear drinking water shall be available at all times. The floor of the cage and the food trough shall be flushed with water and the water in the pool changed as necessary to maintain good health of the animal. The den shall be flushed and cleaned at least once each week. An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained. Brush, canvas, or other material shall be readily available to be placed over the cage to provide additional shade

- when necessary. The use of collars, tethers or stakes to restrain the cougar is prohibited, except as a temporary safety device.
- (B) Cougars held in captivity by other than educational or scientific institutions or publicly supported zoos shall be held without caging under conditions simulating a natural habitat. Applicants for a captivity license to hold cougar shall apply to the Commission on forms provided by the Commission, and shall provide plans that describe how the applicant's facility will comply with the requirement to simulate a natural habitat. All of the following conditions must exist to simulate a natural habitat in a holding facility.
- (i) The method of confinement is by chain link fence, without the use of chains or tethers, provided that:
 - (I) Nine gauge chain link fencing shall be at least 12 feet in height with a four foot fence overhang at a 45 degree angle on the inside of the pen to prevent escape from climbing and jumping.
 - (II) Fence posts and at least six inches of the fence skirt shall be imbedded in a six inch wide by one foot deep concrete footer to prevent escape by digging.
 - (ii) The area of confinement shall be at least one acre for two cougars with an additional one-eighth acre for each additional cougar. If, following a site evaluation, the Commission determines that terrain and topographical features offer sufficient escape, cover and refuge, and meet all other specifications, and that the safety and health of the animal(s) will not be compromised, smaller areas shall be permitted.
- (iii) Cougars shall be free under normal conditions to move throughout the area of confinement.
 - (iv) At least one-half of the area of confinement shall be wooded with living trees, shrubs and other perennial vegetation capable of providing shelter from sun and wind; and a 20 foot wide strip along the inside of the fence shall be maintained free of trees, shrubs and any other obstructions which could provide a base from which escape through leaping could occur.
 - (v) The area of confinement shall contain a pool not less than one and one-half feet deep and not less than four by five feet in size.
 - (vi) Each cougar shall be provided a den to which the cougar may retire for rest, shelter from the elements, or respite from public observation. Each den shall be four feet wide by four feet high by four feet deep. Each den shall be enclosed entirely within at least an eight feet wide by ten feet deep by 12 feet high security cage. The security cage shall be completely within the confines of the facility, cement-floored, shall have nine gauge fencing on all sides and the top, and shall have a four foot, 45 degree fence overhang around the outside top edge to prevent cougar access to the top of the security cage.
 - (vii) The area of confinement shall protect the cougar from harassment or annoyance.
- (C) Provisions shall be made for maintenance of sanitation and for food and water adequate to maintain good health of the animal(s).
- (D) The applicant shall document that the applicant owns or has a lease of the real property upon which the holding facility is located, provided that if the

- applicant is a lessee, the lease is for a duration of at least five years from the point of stocking the facility.
- (7) Other Wild Animal Enclosures.
- (A) General Enclosure Requirements.
- (i) The enclosure shall provide protection from free ranging animals and from sun or weather that could cause stress to the animals.
 - (ii) A den area in which the animal can escape from view and large enough for the animal to turn around and lie down shall be provided for each animal within the enclosure.
 - (iii) No tethers or chains shall be used to restrain the animal.
- (iv) Either a tree limb, exercise device, or shelf large enough to accommodate the animal shall be provided to allow for exercise and climbing.
- (v) Sanitation and Care. Fresh food shall be provided daily, and clean water shall be available at all times.
- (vi) An effective program for the control of insects, ectoparasites, disease, and odor shall be established and maintained.
- (B) Single Animal Enclosures for certain animals. The single-animal enclosure for the animals listed in this Subparagraph shall be a cage with the following minimum dimensions and horizontal areas:

Animal	Dimensions in Feet			Per Animal
	Length	Width	Height	
Bobcat, Otter	10	5	5	50
Raccoon, Fox, Woodchuck	8	4	4	32
Opossum, Skunk, Rabbit	6	3	3	18
Squirrel	4	2	2	8

- (C) Single Enclosure Requirements for animals not mentioned elsewhere in this Rule. For animals not listed above or mentioned elsewhere in this Rule, single animal enclosures shall be a cage with one horizontal dimension being at least four times the nose-rump length of the animal and the other horizontal dimension being at least twice the nose-rump length of the animal. The vertical dimensions shall be at least twice the nose-rump length of the animal. Under no circumstances shall a cage be less than four feet by two feet by two feet.
- weaning. After weaning, if the animals are kept together, the requirements for multiple-animal enclosures apply.

History Note: Authority G.S. 19A-11; 106-549.97(b); 113-134; 113-272.5, 113-272.6; Eff. February 1, 1976; Amended Eff. December 1, 1990; June 1, 1990; July 1, 1988; November 9, 1980; Temporary Amendment Eff. October 8, 2002; Amended Eff. May 1, 2010; December 1, 2005; August 1, 2004.

15A NCAC 10H .0304 CAPTIVE CERVID HERD CERTIFICATION PROGRAM

- (D) Multiple Animal Enclosures. The minimum area of horizontal space shall be determined by multiplying the required square footage for a single animal by a factor of 1.5 for one additional animal and the result by the same factor, successively, for each additional animal. The vertical dimension for multiple animal enclosures shall remain the same as for single animal enclosures.
- (E) Young animals. The young of any animal may be kept with the parent in a single-animal enclosure only until
- (a) The Wildlife Resources Commission has established this Captive Cervid Herd Certification Program in order to prevent the introduction of Chronic Wasting Disease (CWD) into North Carolina and reduce the potential for spread of CWD while allowing transportation of cervids from herds in which CWD has not been detected for at least five years, in accordance with the requirements in this Section. Only licensees with Certified Herds as defined in Paragraph (e) of this Rule may request to expand their pen size to accommodate additional cervids and transport cervids within North Carolina for purposes other than those specified in 15A NCAC10H .0301(f)(4). Licensees with Certified Herds may also import cervids from a herd in which CWD has not been detected for at least five years and has been managed using standards equivalent to, or more stringent than,

the criteria specified in 15A NCAC 10H .0301 and 15A NCAC 10H .0302. The individual U.S. or Mexican state or territory, Canadian province or other country of origin must have CWD monitoring requirements that are at least as stringent as those described in this Section. The originating individual U.S. or Mexican state's or territory's, Canadian province's or other country's CWD monitoring program must be jointly reviewed by Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel before approval of any importation of cervids into North Carolina. There shall be no importation from individual U.S or Mexican states or territories, Canadian provinces or other countries in which CWD has been detected, either in a wild or captive herd.

(b) Enrollment qualifications. Only captive cervid herds held under a valid captivity license are eligible for enrollment in the Captive Cervid Herd Certification Program. Licensees shall comply with all captivity license requirements outlined in this Section and the rules and laws regulating possession, transportation and importation of cervids in order to remain in the Captive Cervid Herd Certification Program.

(c) Enrollment application. Each individual holding a current and valid Captivity License for cervids may apply to be enrolled in the Captive Cervid Herd Certification Program. All applications shall be in writing on a form supplied by the Commission. The Commission shall deny an application if:

- (1) the licensee has not complied with all the requirements under the captivity license statutes and all rules pertaining to the holding of cervids in captivity and the transportation or importation of cervids resulting in a failed inspection report for the licensee's most recent inspection; or a pending citation;
- (2) the licensee has provided false information; or
- (3) CWD has been confirmed in a cervid at the licensee's facility.

(d) Enrollment dates. The enrollment date is:

- (1) the first date upon official inspection, documented by Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel, on which the licensee has complied with all captivity rules and statutes that pertain to cervids, including tagging, provided that the licensee has continued to comply with these regulations; or
- (2) the date on which a waiver was issued by the Wildlife Resources Commission Executive Director under the conditions set forth in 15A NCAC 10A .1101(a) that brought the licensee into compliance assuming that there were no other compliance actions pending, provided that the licensee has continued to comply with the captive cervid regulations.

This date may be retroactive but may extend back no earlier than the date Wildlife Resources Commission and Department of Agriculture and Consumer Services personnel documented that the licensee came into compliance with all captivity rules and statutes related to holding cervids in captivity, including tagging of all cervids.

(e) Certified herd. When a herd is enrolled in the Captive Cervid Herd Certification Program, it shall be placed in First Year status. If the herd continues to meet the requirements of the Captive Cervid Herd Certification Program, each year on the anniversary of the enrollment date the herd status shall be upgraded by one year. One year from the date a herd is placed in Fifth Year status, the herd status shall be changed to Certified, and the herd shall remain in Certified status as long as it is enrolled in the Captive Cervid Herd Certification Program, provided its status is not lost or suspended without reinstatement as described in Paragraph (f).

(f) Herd status

(1) A Certified Herd or any herd enrolled in the program shall have its status suspended or reduced if:

- (A) the licensee fails to comply with any of the ongoing requirements for captive cervid licenses as identified in 15A NCAC 10H .0301;
- (B) the licensee violates any other North Carolina law or rule related to captive cervids;
- (C) an animal in the herd exhibits clinical signs of CWD;
- (D) an animal in the herd can be traced back to a herd with an animal exhibiting clinical signs of CWD; or
- (E) the herd is quarantined by the State Veterinarian.

(2) A Certified Herd or any herd enrolled in the program shall lose its status if:

- (A) an animal in the herd can be traced back to a herd in which CWD has been detected;
- (B) CWD is detected in an animal in the herd; or
- (C) the licensee loses his or her license.

The Wildlife Resources Commission shall review cases of suspended status upon request. A Certified Herd with suspended status may regain its status if the licensee corrects within 30 days the deficiency under which the status was suspended or, in the case of suspected CWD, the disease was not detected in the suspect animal.

(g) Inspection. If an inspection of the captive cervids is needed as a part of certification, including reinstating a suspended status, the licensee is responsible for assembling, handling and restraining the captive cervids and all costs incurred to present the animals for inspection.

History Note: Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274; 113-292; Eff. May 1, 2010.

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

(a) Diseased Birds. No game bird propagator licensed under this Section shall knowingly sell or otherwise transfer possession of any live game bird that shows evidence of any communicable disease, except that such transfer may be made to a veterinarian

or pathologist for examination and diagnosis. Disposition of any game bird having a communicable disease in a manner not likely to infect wild game bird populations is the responsibility of the licensee.

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

(c) **Sale of Dead Game Birds as Food.** Subject to the limitations and conditions indicated in Rule .0901 of this Section and to any applicable laws and regulations relating to pure foods, public health and advertising, game birds produced by game bird propagators licensed under this Section may be killed at any time in any manner, except by shooting during the closed season on the species concerned, and sold for food purposes as provided by the following Subparagraphs:

- (1) **Sale Direct to Consumer.** Unprocessed dead game birds may be sold directly to a consumer when accompanied by a receipt showing the name of the consumer, the name and license number of the propagator, and the quantity and species of the game birds sold. A copy of such receipt shall be retained by the propagator as part of his records. No such bird shall be resold by any such consumer.
- (2) **Sale To or Through a Processor.** Game birds may be sold to any commercial food processor who holds a permit to possess them or delivered to such a processor for processing and packaging prior to sale. In either case, the transfer shall be evidenced by a duplicate receipt identifying the processor by name and permit number and the propagator by name and license number, and indicating the number and species of birds transferred. A copy of such receipt shall be retained by each of the parties as part of his records. The processed carcasses of the birds shall be enclosed in a wrapper or container on the outside of which is indicated the number and species of birds contained, the license number of the propagator, and the fact that such birds were

domestically raised. When so packaged, such processed game birds may be sold at wholesale or at retail through ordinary channels of commerce. This Paragraph does not apply to dead quail marketed for food purposes under the regulations of the North Carolina Department of Agriculture.

- (3) The eggs of propagated game birds may not be sold for food purposes.

History Note: Authority G.S. 113-134; 113-273; 50 C.F.R., Part 21.13;

Eff. January 1, 1981;

Amended Eff. August 1, 2010; May 1, 2008; June 1, 2005.

15A NCAC 10J .0102 GENERAL REGULATIONS REGARDING USE OF CONSERVATION AREAS

(a) **Trespass.** Entry on areas posted as Wildlife Conservation Areas for purposes other than wildlife observation, hunting, trapping or fishing shall be as authorized by the landowner and there shall be no removal of any plants or parts thereof, or live or dead nongame wildlife species or parts thereof, or other materials, without the written authorization of the landowner. On those areas designated and posted as Colonial Waterbird Nesting Areas, entry is prohibited during the period of April 1 through August 31 of each year, except by written permission of the landowner. Entry into Colonial Waterbird Nesting Areas during the period of September 1 through March 31 is as authorized by the landowner.

(b) **Littering.** No person shall deposit any litter, trash, garbage, or other refuse at any place on any wildlife conservation area except in receptacles provided for disposal of such refuse. No garbage dumps or sanitary landfills shall be established on any wildlife conservation area by any person, firm, corporation, county or municipality, except as permitted by the landowner.

(c) **Possession of Hunting Devices.** It is unlawful to possess a firearm or bow and arrow on a designated wildlife conservation area at any time except during the open hunting seasons or hunting days for game birds or game animals thereon unless such device is cased or not immediately available for use, provided that such devices may be possessed in designated camping areas for defense of persons and property; and provided further that .22 caliber pistols with barrels not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as side arms on designated wildlife conservation areas at any time other than by hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons. This Rule does not prevent possession or use of bow and arrow as a licensed special fishing device in those waters where such use is authorized. During the closed firearms seasons on big game (deer, bear, boar, wild turkey), no person shall possess a shotgun shell larger than No. 4 shot or any rifle or pistol larger than a .22 caliber rimfire while on a designated wildlife conservation area except that shotgun shells containing any size steel or non-toxic shot may be used while waterfowl hunting. No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting waterfowl on any area designated as a wildlife

conservation area, except shotgun shells containing lead buckshot may be used while deer hunting.

(d) License Requirements:

(1) Hunting and Trapping:

(A) Requirement. Except as provided in Part (d)(1)(B) of this Rule, any person entering upon any designated wildlife conservation area for the purpose of hunting or trapping shall have in his possession a game lands use license in addition to the appropriate hunting or trapping licenses.

(B) Exception. A person under 16 years of age may hunt on designated wildlife conservation areas on the license of his parent or legal guardian.

(2) Trout Fishing. Any person 16 years of age or over, including an individual fishing with natural bait in the county of his residence, entering a designated wildlife conservation area for the purpose of fishing in designated public mountain trout waters located thereon must have in his possession a regular fishing license and special trout license. The resident and nonresident sportsman's licenses and short-term comprehensive fishing licenses include trout fishing privileges on designated wildlife conservation areas.

(e) Training Dogs. Dogs shall not be trained on designated wildlife conservation areas except during open hunting seasons for game animals or game birds thereon. Dogs are not allowed to enter any wildlife conservation area designated and posted as a colonial waterbird nesting area during the period of April 1 through August 31.

(f) Trapping. Subject to the restrictions contained in 15A NCAC 10B .0110, .0302, and .0303, trapping of fur-bearing animals is permitted on any area designated and posted as a wildlife conservation area during the applicable open seasons, except that trapping is prohibited:

- (1) on the Nona Pitt Hinson Cohen Wildlife Conservation Area in Richmond County; and
- (2) in posted "safety zones" located on any Wildlife Conservation Area.

(g) Use of Weapons. No person shall hunt or discharge a firearm or bow and arrow from a vehicle, or within 200 yards of any building or designated camping areas, or within, into, or across a posted "safety zone" on any designated wildlife conservation area. No person shall hunt with or discharge a firearm within, into, or across a posted "restricted zone" on any designated wildlife conservation area.

(h) Vehicular Traffic. No person shall drive a motorized vehicle on a road, trail or area posted against vehicular traffic or other than on roads maintained for vehicular use on any designated wildlife conservation area.

(i) Camping. No person shall camp on any designated wildlife conservation area except on an area designated by the landowner for camping. On the coastal islands designated wildlife

conservation areas, camping is allowed except on those areas designated and posted as Colonial Waterbird Nesting Areas.

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

(k) Motorboats. No person shall operate any vessel powered by an internal combustion engine on the waters located on designated wildlife conservation areas.

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

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

(n) It is unlawful to release animals or birds; domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes; and feral animals on conservation areas without prior written authorization of the Wildlife Resources Commission.

History Note: Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 113-296; 113-297; Eff. February 1, 1990; Amended Eff. August 1, 2010; May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 12A .0105 DEFINITIONS

The definitions in G.S. 113-44.9 apply to this Chapter. The following words and phrases, which are not defined therein, are defined as follows:

- (1) "Division" means the Division of Parks and Recreation;
- (2) "Owner" means any person owning, leasing, or having the exclusive use of any property;
- (3) "Permits" means any written document issued by or under authority of the Department, permitting the performance of a specified act or acts;
- (4) "Person" means any natural person, corporation partnership, association, or governmental unit; and
- (5) "Long term operating agreement" means any current or future agreement between the Division and a private or government entity for one year or longer where that entity agrees to operate and manage a facility or property.

Within State Trails and State Rivers that travel lands of diverse ownership, the rules in this Chapter apply only to segments within and on property managed by the Division.

History Note: Authority G.S. 113-8; 113-35; Eff. January 1, 1983; Amended Eff. May 1, 2010; August 1, 1988; October 1, 1984.

15A NCAC 12B .0104 PERMITS

(a) Applications for permits may be made by contacting individual Park and Recreation Area offices or Chief of Operations, North Carolina Division of Parks and Recreation, 1615 Mail Service Center, Raleigh NC 27699-1615. Violation of the terms and conditions of a permit issued in accordance with this Section is prohibited and shall result in revocation of the permit by the Park Superintendent or his or her designee.

(b) Activities or uses which are eligible for a Special Use Permit are as follows; metal detector use; rock or cliff climbing; rappelling and bouldering; licensed vehicle operations on the unpaved areas of Fort Fisher State Recreation Area; overnight parking; athletic contests; horse and bridle trails; use of the Bullhead – Special Catch and Release Stream at Stone Mountain State Park; camping; aviation and other activities or uses requested by park visitors. Special Use Permits may be obtained at the park level from the Park Superintendent or his or her designee on the day of the activity.

(c) The Park Superintendent or his or her designee shall issue a Special Use Permit on proper application unless:

- (1) A prior application for a permit for the same activity or use has been made and had been or will be granted; and the activities or uses authorized by that permit do not reasonably allow multiple occupancy or use of that particular location;
- (2) It reasonably appears that the activity or use will threaten the health, safety and welfare of persons using the Park;
- (3) The activity or use is of such a nature or duration that it cannot be reasonably conducted or performed in the particular location applied for, considering such things as safety of the applicant or other Park visitors; damage to Park resources or facilities; impairment of the atmosphere of peace and tranquility in specially protected natural or historic areas; interference with interpretative programs, visitor services or other program activities, or the administrative activities of the Park; or impairment of public use facilities or services of Park concessionaires or contractors;
- (4) The activity or use would constitute a violation of applicable law or regulation; or
- (5) The activity would create conditions that are not reasonably consistent with the protection and use of the Park for the purposes for which it is operated, including limitations on the time, location, number of participants, use and facilities, number and types of equipment used in the activity.

(d) Activities or uses which are eligible for a Special Activity Permit are as follows; natural or cultural research activity; boating access area use; sports or games; pack animals and goats; commercial enterprises; commercial photography; advertising; entry to restricted areas and other activities or uses requested by park visitors. Notwithstanding the requirements of this Rule, public assemblies and meetings are governed by 15A

NCAC 12B .1105, and uses of intoxicating liquors and controlled substances or beverages are governed by 15A NCAC 12B .1003.

(e) An application for a Special Activity Permit shall be made at least 14 days in advance of the activity or use; shall set for the name, address and phone number of the applicant; the name of the organization (if any); the name, address and phone number of a contact person; the date, time, duration, nature and location of the proposed activity or use; the estimated number of persons expected to participate; and the equipment and facilities to be used. Special Activity Permit applications will be approved or denied within 10 business days.

(f) The Park Superintendent or his or her designee shall issue a Special Activity Permit on application unless:

- (1) A prior application for a permit for the same activity or use has been made and had been or will be granted; and the activities or uses authorized by that permit do not reasonably allow multiple occupancy of that particular location;
- (2) It reasonably appears that the activity or use will threaten the health, safety and welfare of persons using the Park;
- (3) The activity or use is of such a nature or duration that it cannot be reasonably conducted or performed in the particular location applied for, considering such things as safety of the applicant or other Park visitors; damage to Park resources or facilities; impairment of the atmosphere of peace and tranquility in specially protected natural or historic areas; interference with interpretative programs, visitor services or other program activities, or the administrative activities of the Park; or impairment of public use facilities or services of Park concessionaires or contractors; or
- (4) The activity or use would constitute a violation of applicable law or regulation.

(g) The permit may contain such conditions as are reasonably consistent with protection and use of the Park for the purposes for which it is operated, including limitations on the time, location, number of participants, use and facilities, number and types of equipment used.

(h) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(i) Participants in activities or uses covered under this Rule shall otherwise be subject to Park rules or directives, including adherence to locations specified for their activity or use while partaking in such event or activity.

History Note: Authority G.S. 113-35; Eff. February 1, 1976; Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983.

15A NCAC 12B .0203 METAL DETECTORS PROHIBITED

Metal detectors are not allowed in any park area except to locate lost personal property when authorized by a Special Use Permit as provided by Rule .0104 of this Subchapter.

History Note: Authority G. S. 113-35;
Eff. January 1, 1983;
Amended Eff. May 1, 2010.

15A NCAC 12B .0204 ROCK OR CLIFF CLIMBING AND RAPPELLING

(a) Rock climbing, bouldering, cliff climbing or rappelling is prohibited except in designated areas. A climbing, rappelling and bouldering permit is required. Application for a climbing, rappelling and bouldering permit shall be made as provided by Rule .0104 of this Subchapter.

(b) The installation of permanent or fixed rock climbing anchors, such as pitons and expansion bolts, is prohibited in any climbing area unless the Park Superintendent has determined the installation may be made safely and without affecting park resources or facilities.

(c) The superintendent may designate a daily capacity limit for specific climbing routes and areas based on natural resource protection and public safety.

(d) Organized private, commercial or non-profit groups shall obtain a special activity permit prior to the activity. Application for a special activity permit shall be made as provided by Rule .0104 and .1101 of this Subchapter.

(e) Violation of the terms and conditions of a permit issued in accordance with this Section is prohibited and shall result in the revocation of the climbing, rappelling and bouldering permit.

History Note: Authority G.S. 113-35;
Eff. January 1, 1983;
Amended Eff. May 1, 2010; October 1, 1984.

15A NCAC 12B .0501 VEHICLES: WHERE PROHIBITED

(a) A person shall not drive a vehicle including bicycles, wheeled or tracked powered devices, all terrain vehicles, motorcycles, mopeds or similar conveyances in any park within or upon a safety zone, walk, bridle trail, hiking trail, fire trail, service road or any part of any park area not designated or customarily used for such purpose. Operation of unlicensed for highway-use motor vehicles, motorcycles, golf carts, snow mobiles, utility vehicles, mini-bikes, all terrain vehicles, powered go-carts and powered stand-up scooters is prohibited within any park.

(b) A mobility-impaired person using a manual or motorized wheelchair is considered a pedestrian. This Rule is not intended to restrict the activities of such a person beyond the degree that the activities of a pedestrian are restricted by the same Rule, except where use of such wheelchairs constitutes a safety hazard or would damage fragile natural resources.

(c) No person shall drive a vehicle, bicycle or other conveyance on areas with fragile natural resources that would be damaged by the vehicle, bicycle or other conveyance, or where the use of the vehicle, bicycle or other conveyance would be unsafe.

(d) Notwithstanding Paragraph (a) of this Rule, operation of licensed vehicles on the unpaved areas of the Fort Fisher

Recreation Area is prohibited unless the operator has obtained a vehicle beach use permit as provided by Rule .0104 of this Subchapter.

(e) Notwithstanding Paragraph (a) of this Rule, operation of motor vehicles upon the unpaved areas of Chestnut Mountain Road within Gorges State Park is prohibited unless the vehicle has four-wheel drive or all wheel drive capability.

History Note: Authority G. S. 113-35;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; February 1, 2004; January 1, 1983.

15A NCAC 12B .0502 PARKING

(a) An owner or driver shall not allow a vehicle to remain stationary anywhere in any park outside of designated parking spaces, in a "No Parking Zone", in front of a park gate, driveway or emergency vehicle access except for a reasonable time to receive or discharge passengers or load or unload supplies.

(b) An owner or driver shall not allow a vehicle to remain anywhere in any park unattended or abandoned for longer than 12 hours except by permit, as provided by Rule .0104 of this Subchapter.

(c) An owner or driver shall not leave a vehicle parked unattended or abandoned overnight except by permit, as provided by Rule .0104 of this Subchapter.

(d) The Division may remove or tow any vehicle that is in violation of this Rule at the owner's expense.

History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; January 1, 1983

15A NCAC 12B .0601 BOATING

(a) Only park employees, their agents, and contractors on duty may use boats, rafts, surf boards, personal watercraft, canoes or any other vessel in designated swimming areas.

(b) The Division may limit boat motor horsepower or motor type or prohibit the use of gasoline powered motors on designated lakes completely contained within parks and recreation areas based on natural resource protection, public safety, user conflicts, park operations, facility overcrowding and the availability of designated launching facilities.

(c) Private boats, rafts, canoes, personal watercraft or other vessels may be launched or retrieved only at public boat ramps or designated launch sites.

(d) The mooring of boats, personal watercraft or other vessels to a dock, wharf, pier, or boat launching facility in such a manner as to prevent, impede or inconvenience the use by another person of any dock, wharf, pier or launch or create a hazard to other watercraft is prohibited and may be moved by park staff at the owners expense.

(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, loitering, operating concessions or other activities not directly involved with launching of boats are prohibited, except where authorized by a special activity permit as provided by Rule .0104 of this Subchapter.

*History Note: Authority G.S. 113-35; 113-264;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983.*

15A NCAC 12B .0602 CAMPING

- (a) A person shall not camp in a state park or recreation area except:
- (1) in a designated camping area; and
 - (2) under a valid camping permit.
- (b) All camping permits shall be issued at the desired state park or recreation area by an authorized Division representative no earlier than the first day of the desired period of continuous and actual occupancy.
- (c) Reservations for camping permits shall only be accepted in accordance with the provisions of 15A NCAC 12B .1205, Reservations.
- (d) Payment of the camping permit fee, in full, is required at the time the camping permit is issued or when the reservation is made.
- (e) The maximum period of consecutive overnight camping in any state park or recreation area is 14 days within any 30 day period beginning with the first night of stay. Multiple camping areas within an individual park or recreation area are considered as a single camping facility for determining the maximum period of overnight camping within any 30 day period. The maximum consecutive nights shall be extended by the Park Superintendent, upon written request with reasons supporting the extension, if the Park Superintendent determines equitable public access, visitor services and staffing levels will not be affected.
- (f) No camper shall leave a set-up camp unattended for more than 12 hours. Camping equipment, tents, trailers, recreation vehicles and articles on a campsite left unattended for more than 12 hours are subject to removal at the owner's expense and use of the campsite.
- (g) At least one adult, 18 or older, shall accompany each camper group.
- (h) No campfires shall be left unattended.
- (i) Tents shall only be used in areas delineated for such use.
- (j) Connecting to a utility system without payment of required fees is prohibited.
- (k) A Division representative may designate portions of a park where food products, garbage, cosmetics, cleaning supplies and equipment used to cook or store food products are required to be kept in a Division supplied food locker, a vehicle, recreational vehicle or suspended at least 10 feet above the ground and four feet horizontally from a post, tree trunk, or other object. Food, garbage and cooking equipment shall not be stored except as specified in these designated areas. This Paragraph does not apply to food products, garbage and cooking equipment being transported, consumed or being prepared for consumption.
- (l) Designated camping areas shall be for use by registered campers with a camping permit for that site and their guests only.
- (m) Violation of the terms and conditions of a camping permit issued in accordance with this section is prohibited and shall result in the suspension or revocation of the permit.
- (n) Group and family campsite checkout time is 3:00 PM on the day of departure.

*History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; February 15, 1981.*

15A NCAC 12B .0701 SPORTS AND GAMES: WHEN PERMITTED

- (a) Athletic contests, sports and games are allowed in designated areas or by special activity permit, as provided by Rule .0104 of this Subchapter.
- (b) The use of skate boards, roller blades, roller skates and similar devices are prohibited on park roads, sidewalks, and pedestrian areas and on park infrastructure to include walls, railings and culverts.

*History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; February 1, 1983.*

15A NCAC 12B .0802 FISHING

- (a) A person may fish only in designated areas.
- (b) A park fee and a special use permit as provided by Rule .0104 of this Subchapter, are required to fish in the "Bullhead – Special Catch and Release Stream" at Stone Mountain State Park.
- (c) Live specimens to be used for fishing bait shall not be collected within any state park.

*History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983.*

15A NCAC 12B .1001 NOISE REGULATION

- (a) The production or emission in state parks or recreation areas by any person of noises, speech, music or other sounds that a reasonable person would believe is annoying, disturbing or frightening is prohibited.
- (b) The operation of motorized equipment or machinery such as a generator, motor vehicle, motorized toy, or an audio device such as a radio, television set, tape deck or musical instrument, or other item that makes noise that a reasonable person would believe is annoying, disturbing or frightening between the hours of 10:00PM and 7:00AM is prohibited.

*History Note: Authority G.S. 113-34; 113-35; 113-264(a);
Eff. February 1, 1976;
Amended Eff. January 1, 1983;
Legislative Objection Lodged Eff. May 11, 1983;
Curative Amended Eff. May 12, 1983;
Amended Eff. May 1, 2010.*

15A NCAC 12B .1003 INTOXICATING LIQUORS: CONTROLLED SUBSTANCE OR BEVERAGES

- (a) A person shall not possess or consume any malt beverage, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101, within any state park or recreation area, except at the Chimney Rock Attraction and Chimney Rock Restaurant at the Chimney Rock State Park as permitted under a long term operating agreement and at the Summit Conference Center, Haw River State Park in designated areas and only after obtaining a

Special Activity Permit from the Director of the Division or his or her designee under Paragraphs (d) through (i) of this Rule. A person shall not possess or consume any other controlled substance or intoxicating substance within any state park or recreation area.

(b) A person shall not be or become intoxicated while within any state park or recreation area, including during events approved under a Special Activity Permit.

(c) A person shall not sell or attempt to sell any malt beverage, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101, within any state park or recreation area, except pursuant to the terms and conditions of a long-term operating lease from the Division. A person shall not sell or attempt to sell any other controlled substance or intoxicating substance within any state park or recreation area.

(d) Applications for a Special Activity Permit authorizing the possession or consumption of any malt beverage, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101, shall be made by a Special Activity Permit request to the Director of the Division or his or her designee, not less than 14 days prior to the date(s) of the intended use.

(e) The written request shall state the period of time and the area from which the use is requested; the number of persons expected to be in attendance; the type of activity and malt beverage, fortified wine, unfortified wine or spirituous liquor involved; and the name of the individual, organization or group seeking permission to use any portion of any state park or recreational area for the possession or consumption of any malt beverage, fortified wine, unfortified wine or spirituous liquor, listing the name and address of its president, vice president(s), secretary and treasurer or its principal chief executive officer or officers, its directors, if any, and such other pertinent information as may be required by the Director of the Division, or his or her designee, sufficient to identify the organization submitting the request and the individuals principally engaged in the conduct of its affairs.

(f) The Special Activity Permit shall specify the hours of permitted use, type of malt beverage, fortified wine, unfortified wine or spirituous liquor, the total amounts to be brought into the Park, and the maximum number of attendees.

(g) If the Director of the Division or his or her designee concludes that the requested use will not hinder or impede any regularly established use of the Haw River State Park and Chimney Rock State Park and will not adversely affect or threaten their care, protection or maintenance or create a nuisance by such use, he or she shall grant permission to use the state park or recreation area specified in the request or long term operating lease submitted in accordance with this Rule. If the Director or his or her designee shall determine otherwise, he shall deny the request.

(h) The Director of the Division or his or her designee shall designate appropriate areas and occasions in the designated parks under this Rule, suitable for possession or consumption of malt beverages, fortified wine, unfortified wine or spirituous liquor as defined in G.S. 18B-101. Such areas and occasions shall be limited so as not to interfere, or cause user conflicts, with other groups or individuals also visiting the state park but not requesting the Special Activity Permit. Examples of appropriate areas include meeting rooms, restaurants, cafeterias,

lodging rooms and other similar areas in which user conflicts are minimized. Examples of permitted occasions include receptions, weddings and retreats.

(i) The applicant for a Special Activity Permit shall comply with all state or local laws, rules or ordinances related to the possession or consumption of any malt beverage, fortified wine or unfortified wine, as defined in G.S. 18B-101.

History Note: Authority G.S. 113-35; Eff. February 1, 1976; Amended Eff. January 1, 1983; June 1, 1981; Legislative Objection Lodged Eff. March 22, 1983; Amended Eff. May 1, 2010.

15A NCAC 12B .1004 ANIMALS AT LARGE

(a) A person shall not cause or permit any animal owned by him, in his custody, or under his control, except an animal restrained by a leash not exceeding six feet in length, to enter any park area. Each animal found at large may be seized and disposed of as provided by local law covering disposal of stray animals on public property.

(b) Animals, with the exception of service animals, shall not be allowed in swimming areas, bathhouses, restaurants, visitor centers, park offices, community buildings or cabin areas unless an area or facility is designated as pet friendly.

(c) Animals shall not be unattended at any time within any park area.

(d) Between 9:00 p.m. and 7:00 a.m., animals shall be confined to owner's enclosed vehicle or tent.

(e) Any animal causing a nuisance within a park area shall be removed by the owner from the park area upon the request by a division official.

(f) Pack animals and goats are not allowed in any park except by Special Activity Permit, as provided by Rule .0104 of this Subchapter.

History Note: Authority G.S. 113-35; Eff. February 1, 1976; Amended Eff. May 1, 2010; January 1, 1983.

15A NCAC 12B .1101 COMMERCIAL ENTERPRISES

(a) Only park employees, contractors or their agents may engage in business or conduct commercial activity in a park, unless authorized by a special activity permit for a specific event, as provided by Rule .0104 of this Subchapter.

(b) Craftsmen are not allowed to display their crafts in a park except when authorized for a special event under a special activity permit. Sales shall not be made except in conjunction with a park sponsored special event under permit as provided by Rule .0104 of this Subchapter.

(c) Applications for permits shall be made as provided by Rule .0104 of this Subchapter.

History Note: Authority G.S. 113-35; Eff. February 1, 1976; Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983.

15A NCAC 12B .1105 PUBLIC ASSEMBLIES AND MEETINGS; SPECIAL ACTIVITY PERMIT

(a) Public assemblies, meetings, gatherings, demonstrations, events, religious activities and other public expressions of views (hereinafter "event or activity") protected under the First Amendment of the U.S. Constitution, including the distribution of non-commercial printed matter, are allowed within State Parks, so long as the requirements of this Section are met.

(b) Where the number of persons expected to attend or participate in the event or activity is 20 or less, no Special Activity Permit is required. If more than 20 persons are expected to attend or participate, approval under this Rule is required. The Park Superintendent or his or her designee shall also determine if a Special Activity Permit is required by groups that have concurrently reserved shelters, lodges or similar meeting places.

(c) An application for such a Special Activity Permit shall be made at least 14 days in advance of the event or activity; shall set forth the name, address and phone number of the applicant; the name of the organization (if any); the name, address and phone number of a contact person; the date, time, duration, nature and location of the proposed event or activity; and the estimated number of persons expected to participate; the equipment and facilities to be used; The 14 day time frame shall be waived if the applicant can demonstrate that there will be no adverse effect on park operations, resources or facilities. Special Activity Permit applications shall be approved or denied within 10 business days.

(d) The Park Superintendent or his or her designee shall issue a Special Activity Permit on proper application unless:

- (1) A prior application for a permit for the same time and location has been made and has been or will be granted: the activities for a permit for the same time and location has been made and has been or will be granted; and the activities authorized by that permit do not reasonably allow multiple occupancy of that particular location;
- (2) It reasonably appears that the event or activity will threaten the health, safety and welfare of persons using the Park;
- (3) The event or activity is of such nature or duration that it cannot reasonably be accommodated in the particular location applied for, considering such things as damage to Park resources or facilities; impairment of the atmosphere of peace and tranquility in specially protected natural or historic areas; interference with interpretative programs, visitor services or other program activities, or the administrative activities of the Park; or impairment of public use facilities or services of Park concessionaires or contractors; or
- (4) The event or activity would constitute a violation of an applicable law or regulation.

(e) The permit may contain such conditions as are reasonably consistent with protection and use of the Park for the purposes for which it is operated, including limitations on the time, location, number of participants, use and facilities, and number and types of equipment used, but not on the content or viewpoint of the message. Locations which may not be appropriate for

Special Activity Permit events or activities include archaeological and interpretive program areas, historic structures; boat ramps; trails; sensitive or fragile natural areas; campgrounds; designated swimming beaches; scenic overlooks and the habitats of threatened or endangered species.

(f) No permit shall be issued for a period in excess of 48 hours, and the timing of activities are subject to normal Park operating hours. Permits may be extended for like periods, upon a new application, unless another applicant has requested use of that same location and multiple occupancy of that location is not reasonably possible.

(g) If a permit is denied, the applicant shall be so informed in writing, with the reason(s) for the denial set forth.

(h) Regardless of whether a permit is required, participants in events or activities covered under this Rule:

- (1) Are subject to Park rules or directives;
- (2) Are to adhere to locations specified for their event or activity while partaking in such event or activity;
- (3) Are subject to the usual fees for parking, admission or use;
- (4) Are not to place printed materials on Park signs, infrastructure, natural resources or vehicles;
- (5) Are not to obstruct or impede pedestrians or vehicles, or harass Park visitors with physical contact or persistent demands; and
- (6) Are not to threaten the health, safety and welfare of persons using the Park.

(i) The Park Superintendent shall designate and maintain information on locations not available for events or activities. Locations may be designated as not available only if such activities would;

- (1) Cause injury or damage to park resources or facilities;
- (2) Unreasonably impair the atmosphere of peace and tranquility maintained in specially protected natural or historic areas;
- (3) Unreasonably interfere with interpretive programs, visitor services, or other program activities, or with the administrative activities of the Park; or
- (4) Substantially impair the operation of public use facilities or services of Park concessionaires or contractors;

(j) Violation of the terms and conditions of a permit issued in accordance with this Rule shall result in the suspension or revocation of the permit by the Park Superintendent or his or her designee.

History Note: Authority G.S. 113-35;

Eff. February 1, 1976;

Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983.

15A NCAC 12B .1201 CLOSING AND OPENING HOURS; RESTRICTED AREAS

(a) No person is allowed within the park between posted closing and opening hours except under a Special Activity Permit, as provided by Rule .0104 of this Subchapter.

(b) General hours of operation are as follows:

Nov., Dec., Jan., & Feb.	8:00 a.m. - 6:00 p.m.	requested arrival date with a minimum of 48 hours before arrival.
March, April, May, Sept., & Oct.	8:00 a.m. - 8:00 p.m.	(c) Reservations for group camping permits are required prior to any group camping in a state park or recreation area.
June, July, & August	8:00 a.m. - 9:00 p.m.	(d) Campsites may be reserved for a maximum of 14 consecutive nights within any 30 day period beginning with the first night of stay or as provided by 15A NCAC 12B .0602.

Note: The hours of operation for natural areas and undeveloped parks may vary from the listed hours in this Rule and if the hours vary, are posted at such natural areas and undeveloped parks.

(c) The Division may prohibit or restrict public activity within designated environmentally sensitive areas, areas exceeding capacity levels, construction areas, storm damaged areas and other similar locations for natural resource protection and public safety.

History Note: Authority G.S. 113-35; Eff. February 1, 1976; Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983; April 4, 1979.

15A NCAC 12B .1205 RESERVATION PERIODS

- (a) Reservations for camping permits, cabins, shelters, community buildings and other facilities will be made using the Division's central reservation system. Permits shall be issued upon arrival at the park from a Division representative.
- (b) Reservations for park facilities in state parks will be accepted up to a maximum of 11 months in advance of the

- (e) Payment for a Reservation permit must be made at the time the reservation is made.
- (f) A refund of a camping permit fee, resulting from the cancellation of a reservation for a camping permit, shall be made using the Division's central reservation system. Any changes or cancellations made prior to the scheduled arrival date shall result in a ten dollar (\$10.00) charge. Cancellations made on the scheduled arrival date shall be charged one night's camping for each reservation as well as the ten dollar (\$10.00) service charge. No refunds shall be issued for no-shows, cancellations, or early departures after the date of arrival. Refunds shall be made using the same method of the original transaction, (e.g. credit shall refund credit). This applies to all methods of payment, including credit card, gift card, check and cash payment.

History Note: Authority G.S. 113-35; Eff. February 1, 1976; Amended Eff. May 1, 2010; October 1, 1984; January 1, 1983; February 15, 1981.

15A NCAC 12B .1206 FEES AND CHARGES

The following fee schedule applies to all state park areas. Payment of the appropriate fee is a prerequisite for the use of the public service facility or convenience provided. Unless otherwise provided in this Rule, the number of persons camping at a particular campsite may be limited by the park superintendent depending upon the size of the camping group and the size and nature of the campsite. Any senior citizen (person 62 or older) registering for a campsite shall receive the discounted senior citizens rate. A reservation service charge per day-use facility rental or overnight facility rental (on a per night rate) for use of the Central Reservation System in the amount of three dollars (\$3.00) is required and shall be added to the fees identified in this Rule for those facilities and facilities rented through the Central Reservation System.

(1)	TYPE OF FACILITY OR CONVENIENCE	FEE
	CAMPING	
(a)	Campsites with electrical hookups, picnic table, and grill. Water, restrooms, and shower facilities also available	\$ 22.00 (per campsite daily) \$ 16.00 (senior citizens daily, 62 or older)
(b)	Campsites with picnic table and grill. Water, restrooms, and shower facilities also available.	\$ 17.00 (per campsite daily) \$ 12.00 (senior citizens daily, 62 or older)
(c)	Primitive, unimproved campsites with pit privies. Fresh water also available.	\$ 10.00 (per campsite, daily)
(d)	Primitive group tent camping, unimproved campsites with pit privies.	\$ 2.00 (per person, with \$9.00 minimum)
(e)	Improved Group Camping (water, restrooms and shower facilities available.	\$ 45.00 (per day/maximum capacity 35) \$ 55.00 (per day/maximum capacity 50) \$ 115.00 (per day/maximum capacity 100)
(f)	Group Lodge William B. Umstead State Park	\$ 35.00 (per day/maximum 25 people)
(g)	Group Camps	

APPROVED RULES

(i)	William B. Umstead State Park	Daily \$ 35.00 \$ 85.00	April, May, Sept., Oct. One Unit per day Mess Hall per day
		Weekly Only \$ 400.00 \$ 400.00 \$ 450.00	June thru August Camp Crabtree Camp Whispering Pines Camp Lapihio
(ii)	Singletary Lake State Park	Daily \$ 110.00 \$ 45.00 \$ 85.00	April, May, Sept. Oct. Camp Ipecac, Camp Loblolly Cabin Unit per day Mess Hall per day
		Weekly Only \$ 425.00	June thru August Camp Ipecac Camp Loblolly Nov. - March Camp Loblolly available at Weekly or daily rates.
(h)	Equestrian Facilities	Daily	January - Dec. Per Campsite
	(i) Campsite with picnic table and grill	\$ 22.00	
	(ii) Horse Stalls	\$ 10.00 \$ 15.00	5' X 10' Per Day 10' X 10' Per Day
(2)	CABINS (by reservation only at Hanging Rock State Park and Morrow State Park) (Cabin rentals are restricted to until Labor Day seven consecutive nights in a calendar year at an individual park).	\$425.00 (per week from June 1 st	
			\$450.00 (per week from June 1 st to Labor Day, with swimming privileges).
			\$ 85.00 Labor Day to May 31 st per day with up to a maximum weekly rate of \$425.00).
(3)	SWIMMING/BATHHOUSE	\$ 5.00 (per adult, age 13 and over)	
		\$ 4.00 (per child, ages 3-12)	
(4)	ROWBOAT/CANOE RENTAL	\$ 5.00 (for first hour)	
		\$ 3.00 (for each additional hour)	
(5)	PADDLE BOAT RENTAL	\$ 5.00 (for first hour)	
		\$ 3.00 (for additional hour)	
(6)	PICNIC SHELTER RENTAL (By reservation only)	\$ 30.00 (1-2 tables)	
		\$ 45.00 (3-4 tables)	
		\$ 70.00 (5-8 tables)	
		\$ 95.00 (9-12 tables)	
(7)	PARKING FEE (Kerr Lake, Jordan and Falls only)	\$ 6.00 (per car)	
		\$ 4.00 (per car-senior citizens 62 or older)	
		\$ 15.00 (per bus)	
		\$ 40.00 (for 10 daily passes)	
		\$ 50.00 (for annual pass)	
(8)	HAMMOCKS BEACH FERRY	\$ 5.00 (per adult, age 13 and over)	
		\$ 3.00 (Sr. Citizen and per child, ages 6-12)	
	Annual Ferry Pass	\$ 50.00	
(9)	COMMUNITY BUILDINGS	\$ 185.00	
(10)	SPECIAL ACTIVITY PERMIT	\$ 35.00	

APPROVED RULES

(11)	CATCH AND RELEASE FISHING (Stone Mountain State Park)	\$ 22.00 per day per section
(12)	SLIP RENTAL AND OTHER FEES FOR THE CAROLINA BEACH STATE PARK MARINA (All slip rental fees shall be paid in full at the time the lease is executed.)	
(a)	Transient, overnight dockage (no longer than 14 days in any 30 day period.)	\$ 30.00
(b)	Slip Rental (Fees charged according to term of lease and vessel size.) One month lease	
	25 feet and smaller	\$ 310.00
	26 feet to 30 feet	\$ 335.00
	31 feet to 35 feet	\$ 390.00
	36 feet to 40 feet	\$ 495.00
(c)	Six month lease (runs 183 days from date executed)	
	25 feet and smaller	\$ 1670.00
	26 feet to 30 feet	\$ 1900.00
	31 feet to 35 feet	\$ 2100.00
	36 feet to 40 feet	\$ 2675.00
(d)	Twelve month lease (runs 365 days from date executed)	
	25 feet and smaller	\$ 3275.00
	26 feet to 30 feet	\$ 3535.00
	31 feet to 35 feet	\$ 4120.00
	36 feet to 40 feet	\$ 5225.00
(e)	Boat Launching Fee	\$ 6.00
(f)	Holding Tank Pump Out	\$ 20.00
(g)	Battery Charging Service	\$ 5.00
(13)	Fort Fisher 4WD Beach Access Annual Permit	
(a)	Daily Permit	\$ 12.00
(b)	Annual Permit	\$ 50.00

*History Note: Authority G.S. 113-35(b);
Eff. April 1, 1997;
Amended Eff. May 1, 2010; February 1, 2004.*

15A NCAC 18A .2508 DEFINITIONS

The following definitions apply throughout this Section:

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| <p>(1) Equipment replacement means replacement of individual components of the hydraulic and disinfection systems such as pumps, filters, and automatic chemical feeders.</p> <p>(2) Public swimming pool means public swimming pool as defined in G.S. 130A-280. Public swimming pools are divided into four types:</p> <p>(a) Swimming pools are public swimming pools used primarily for swimming.</p> <p>(b) Spas are public swimming pools designed for recreational and therapeutic use that are not drained, cleaned, or refilled after each individual use. Spas may include units designed for hydrojet circulation, hot water, cold water mineral bath, air induction bubbles, or any combination thereof.</p> | <p>(c) Wading pools are public swimming pools designed for use by children, including wading pools for toddlers and children's activity pools designed for casual water play ranging from splashing activity to the use of interactive water features placed in the pool.</p> <p>(d) Specialized water recreation attractions are pools designed for special purposes that differentiate them from swimming pools, wading pools and spas. They include:</p> <p>(i) water slide plunge pools and run out lanes;</p> <p>(ii) wave pools;</p> <p>(iii) rapid rides;</p> <p>(iv) lazy rivers;</p> <p>(v) interactive play attractions that incorporate devices</p> |
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using sprayed, jetted, or other water sources contacting the users and that do not incorporate standing or captured water as part of the user activity area; and

- (vi) training pools deeper than a 24 inch deep wading pool and shallower than a 36 inch deep swimming pool.
- (3) Registered Design Professional means an individual who is registered or licensed to practice engineering as defined by G.S. 89C or architecture as defined by G.S. 83A.
- (4) Remodeled means renovations requiring disruption of the majority of the pool shell or deck, changes in the pool profile, or redesign of the pool hydraulic system.
- (5) Repair means returning existing equipment to working order, replastering or repainting of the pool interior, replacement of tiles or coping and similar maintenance activities. This term includes replacement of pool decks where the Department has determined that no changes are needed to underlying pipes or other pool structures.
- (6) Safety vacuum release system means a system or device capable of providing vacuum release at a suction outlet caused by a high vacuum occurrence due to suction outlet flow blockage.
- (7) Splash zone means the area of an interactive play attraction that sheds water to a surge tank or container to be recirculated.
- (8) Unblockable drain means a drain of any size and shape that a human body cannot sufficiently block to create a suction entrapment hazard.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Temporary Amendment Eff. June 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Amended Eff. May 1, 2010; March 1, 2004; April 1, 1999; January 1, 1996; October 1, 1994.

15A NCAC 18A .2509 PLAN REVIEW AND APPROVAL

- (a) Public swimming pools plans and specifications shall be prepared by a registered design professional if required by G.S. 89C Engineering or G.S. 83A Architecture, and shall be approved by the Department prior to construction. If required by G.S. 87-1 General Contractors, public swimming pools shall be constructed by swimming pool contractors licensed by the North Carolina Licensing Board for General Contractors.
- (b) The owner shall submit a minimum of two complete sets of plans to the local Health Department for review. Plans shall be drawn to scale and accompanied by specifications so as to

permit a clear, comprehensive review by the local health department. All prints of drawings shall be a minimum of 18 x 24 inches and a maximum size of 36 x 42 inches. These plans shall include:

- (1) Plan and sectional view dimensions of both the pool and the area enclosed by the barrier fences to include the bathhouse and the equipment room and pool accessories;
- (2) Specifications of all treatment equipment used and their layout in the equipment room;
- (3) A piping schematic showing piping, pipe size, inlets, main drains, skimmers, gutter outlets, vacuum fittings and all other appurtenances connected to the pool-piping system;
- (4) Layout of the chemical storage room; and
- (5) Specifications for the water supply and wastewater disposal systems that include aspects such as well location and backwash water disposal where applicable.

- (c) The Department shall approve, disapprove, or provide written comments on plans and specifications for public swimming pools within 30 days of their receipt. If such action is not taken within 30 days, the plans and specifications shall be deemed approved.
- (d) If construction is not initiated within one year from the date of approval, the approval is void.
- (e) The swimming pool contractor shall contact the local health department when pool pipes are in place and visible so that the local health department may conduct an open-pipe inspection of the pool piping.
- (f) Prior to issuance of the operation permit, the owner shall submit to the local health department a statement signed by a registered design professional stating that construction is complete and in accordance with approved plans and specifications and approved modifications. Observation of construction and a final inspection for design compliance by the certifying registered design professional or his representative are required for this statement.
- (g) Upon completion of construction, the contractor shall notify the local health department and the owner. The contractor shall provide the owner with a complete set of drawings, which show as built, the location of all pipes and the connections of all equipment and written operating instructions for all equipment.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; July 1, 1992.

15A NCAC 18A .2510 PUBLIC SWIMMING POOL OPERATION PERMITS

- (a) No public swimming pool shall commence or continue operation unless the owner or operator has an operation permit issued by the Department for each public swimming pool. Unless suspended or revoked, the operation permit shall be valid for the period of operation specified in the application but in no event shall it be valid for more than 12 months. For public swimming pools which are constructed or remodeled, plans and specifications shall have been approved by the Department in accordance with Rule .2509. Compliance with the design and

construction requirements in Rules .2514 through .2534 and approval of plans and specifications shall not be required for public swimming pools constructed or remodeled prior to May 1, 1993. No public swimming pool shall commence or continue operation after May 1, 2010 unless documentation of compliance with pool drain safety requirements of Rule .2539 of this Section has been submitted to the local health department.

(b) Equipment replacement shall comply with Rules .2514 through .2534 and shall be approved by the Department prior to installation. However, for existing swimming pools with recirculation systems unable to meet the pool volume turnover rates specified in the rules of this Section, pump replacement shall match the flow capabilities of the system. Repairs do not require prior approval by the Department.

(c) A separate application for an operation permit must be submitted for each public swimming pool. The owner or operator shall apply annually to the Department for an operator's permit. The application form shall be obtained from the Department and shall include the following information:

- (1) the owner's name, address, and phone number;
- (2) the operator's name, address, and phone number;
- (3) street address of the public swimming pool;
- (4) the physical location of the public swimming pool;
- (5) type of public swimming pool;
- (6) construction date;
- (7) proposed operating dates;
- (8) type of disinfection; and
- (9) signature of owner or designated representative.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; January 1, 1996.

15A NCAC 18A .2511 INSPECTIONS

(a) Each public swimming pool shall be inspected by the Department to determine compliance with the rules of this Section. Where an operation permit is issued prior to inspection of a public swimming pool, an inspection shall be completed within 60 days following issuance of the permit. Pools that open on or after April 1 and close on or before October 31 shall be inspected at least once during the period of operation. All other pools shall be inspected at least twice a year.

(b) Inspections of public swimming pools shall be conducted by Environmental Health Specialists authorized by the Department to enforce the rules of this Section. Inspections shall be documented on Inspection of Swimming Pool Form DENR 3960. Items on the grade sheet shall be divided into two, four and six-demerit items. Six-demerit items are failures to maintain minimum water quality or safety standards and warrant immediate suspension of an operation permit under G.S. 130A-23(d). Four-demerit items are rule violations which warrant denial of an operation permit or notification of an intent to suspend an operation permit. Two-demerit items are rule violations that do not warrant permit action unless such violation causes an imminent hazard, a failure to meet water quality or safety standard, or a suction hazard. Demerits shall be assessed

for each item found not to be in compliance with the rules of this Section. Demerits shall be assessed as follows:

- (1) Violation of Rule .2535(2) of this Section regarding water clarity shall be assessed six demerits.
- (2) Violation of Rule .2531(a)(10), .2531(b)(3), .2535(3), (4), (5), (7), (8), or (9), or .2543(d)(7) or (e)(2) of this Section regarding disinfectant residuals shall be assessed six demerits.
- (3) Violation of Rule .2535(1) of this Section regarding pool water pH shall be assessed six demerits.
- (4) Violation of Rule .2535(12) of this Section or regarding control of water temperature in heated pools shall be assessed six demerits.
- (5) Violation of Rule .2535(10), (11), or (13), .2537(c), or .2540 of this Section regarding pool operator training, water quality records and test kits shall be assessed four demerits.
- (6) Violation of Rule .2518(j), .2537(b)(7) or (16), or .2539 of this Section regarding pool drains and suction hazards shall be assessed six demerits.
- (7) Violation of Rule .2537(b)(3), (8), (9) or (14) of this Section regarding maintenance of pool walls and floor shall be assessed four demerits.
- (8) Violation of Rule .2518(k) or (l), .2531(4), .2532(4)(b) or .2537(b)(14) of this Section regarding water surface skimmers shall be assessed four demerits.
- (9) Violation of Rule .2523 or .2537(b)(6) of this Section regarding depth markers and no diving markers shall be assessed four demerits.
- (10) Violation of Rule .2515(d) or (f), .2523(e) or .2537(b)(12) of this Section regarding floating safety ropes and contrasting color bands at breakpoints shall be assessed two demerits.
- (11) Violation of Rule .2517, .2521, .2527, .2537(b)(10), .2527, or .2542 of this Section regarding diving equipment, slides, ladders, steps, handrails and in-pool exercise equipment shall be assessed two demerits.
- (12) Violation of Rule .2518(i) or .2537(b)(8) of this Section regarding inlets and other fittings shall be assessed four demerits.
- (13) Violation of Rule .2516(b), .2521(b)(4), .2532(13) or .2537(b)(12) of this Section regarding contrasting color bands on seats or benches shall be assessed four demerits.
- (14) Violation of Rule .2532(7) or .2537(b)(11) of this Section regarding spa timers shall be assessed four demerits.
- (15) Violation of Rule .2530(a), or (b), or .2537(b)(1) of this Section regarding lifesaving equipment shall be assessed six demerits.
- (16) Violation of Rule .2528, .2531(a)(7) or .2537(b)(5) of this Section regarding fences,

- barriers and gates shall be assessed four demerits.
- (17) Violation of Rule .2522 or .2537(b)(2) of this Section regarding decks shall be assessed four demerits.
 - (18) Violation of Rule .2530(c) of this Section regarding No Lifeguard warning signs shall be assessed four demerits.
 - (19) Violation of Rule .2530(d) or .2543(d)(13) of this Section regarding pet and glass container signs shall be assessed four demerits.
 - (20) Violation of Rule .2532(15) through (17), or .2537(b)(13) of this Section regarding caution signs at hot water spas shall be assessed four demerits.
 - (21) Violation of Rule .2524, or .2537(b)(4) of this Section regarding pool and deck lighting and ventilation shall be assessed four demerits.
 - (22) Violation of Rule .2530(f) of this Section regarding emergency telephones shall be assessed six demerits.
 - (23) Violation of Rule .2535(6) of this Section regarding automatic chlorine or bromine feeders shall be assessed four demerits.
 - (24) Violation of Rule .2518 .2519, .2525, .2531(a)(1) through (3), .2532(1) through (6), or .2543(b), (d)(1) through (6) or (e)(1) of this Section regarding pool filter and circulation systems shall be assessed four demerits.
 - (25) Violation of Rule .2533, .2534 or .2537(b)(15) of this Section regarding equipment rooms and chemical storage rooms shall be assessed two demerits.
 - (26) Violation of Rule .2518(d) of this Section regarding identification of valves and pipes shall be assessed two demerits.
 - (27) Violation of Rule .2513(b) of this Section regarding air gaps for filter backwash shall be assessed two demerits.
 - (28) Violation of Rule .2526 or .2543(d)(11) of this Section regarding accessible dressing and sanitary facilities shall be assessed two demerits.
 - (29) Violation of Rule .2526 of this Section regarding maintenance and cleaning of dressing and sanitary facilities and fixtures shall be assessed two demerits.
 - (30) Violation of Rule .2512 of this Section regarding water supplies shall be assessed two demerits.
 - (31) Violation of Rule .2513(a) of this Section regarding sewage disposal shall be assessed two demerits.
 - (32) Violation of Rule .2526(c) of this Section regarding floors in dressing and sanitary facilities shall be assessed two demerits.
 - (33) Violation of Rule .2526(c), or (d) of this Section regarding hose bibs and floor drains in

dressing and sanitary facilities shall be assessed two demerits.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; March 1, 2004; January 1, 1996.

15A NCAC 18A .2514 MATERIALS OF CONSTRUCTION

- (a) Pools and appurtenances shall be constructed of materials which are inert, non-toxic to man, impervious and permanent, which can withstand design stresses and which can provide a water-tight tank with a smooth and cleanable surface. Use of vinyl liners is prohibited; however, liners no less than 60 mil thick may be used provided the underlying pool shell is of approved construction. If this material is used for repairs, the existing pool shall be remodeled in accordance with this Rule.
- (b) Sand or earth bottoms are prohibited in swimming pool construction.
- (c) Pool finish, including bottom and sides, shall be of white or light colored material determined visually to contrast least with a value of gray whiter than 50 percent black on an artists gray scale, or shown by reflectance testing to reflect more than 50 percent of visible light.
- (d) Pool surfaces in areas which are intended to provide footing for bathers including steps, ramps, and pool bottoms in areas with water less than three feet deep, shall be designed to provide a slip-resistant surface.

History Note: Authority G.S. 130A-82; Eff. May 1, 1991; Amended Eff. May 1, 2010.

15A NCAC 18A .2515 DESIGN DETAILS

- (a) Pools shall be designed and constructed to withstand all loadings for both full and empty conditions.
- (b) A hydrostatic relief valve shall be provided for in-ground swimming pools which extend more than two feet below the grade of surrounding land surface unless a gravity drainage system is provided.
- (c) Provisions shall be made for complete, continuous circulation of water through all areas of the swimming pool. Swimming pools shall have a circulation system with approved treatment, disinfection, and filtration equipment as required in the rules of this Section.
- (d) The minimum depth of water in the swimming pool shall be three feet (0.91 m) except where a minimum depth of less than three feet is needed to provide non-swimming areas such as children's activity areas and sun shelves.
- (e) The maximum depth at the shallow end of a swimming pool shall be three and a half feet (1.07 m) except for pools used for competitive swimming, diving or other uses which require water deeper than three and a half feet.
- (f) Connections for safety lines shall be recessed in the walls in a manner which presents no hazard to swimmers.
- (g) Decorative features such as planters, umbrellas, fountains and waterfalls located on pool decks shall comply with the following:

- (1) Decorative features shall not occupy more than 20 percent of the pool perimeter;
- (2) If located adjacent to a water depth of greater than five feet, decorative features shall not be more than 20 feet wide;
- (3) Decorative features shall not provide handholds or footholds that could encourage climbing above deck level;
- (4) A walkway shall be provided to permit free access around decorative features and shall be as wide as the lesser of five feet or the deck width required in Rule .2528 of this Section;
- (5) Decorative features shall not obstruct the view of any part of the pool from any seating area; and
- (6) Features with moving water shall be separate from the pool recirculation system.

- (3) Fountains shall be installed in accordance with the manufacturer's instructions;
- (4) Fountains shall be separate from the pool water recirculation system; and
- (5) Fountains shall not release water at a velocity greater than 10 feet per second.

History Note: Authority G.S. 130A-82; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; January 1, 1996.

15A NCAC 18A .2518 CIRCULATION SYSTEM

- (a) Pools shall be equipped with a circulation system.
- (b) The capacity of the circulation system shall be sufficient to clarify and disinfect the entire volume of swimming pool water four times in 24 hours. The system shall be operated 24 hours per day during the operating season.
- (c) The circulation piping shall be designed and installed with the necessary valves and pipes so that the flow from the swimming pool can be from main drains or the surface overflow system. The circulation piping shall be designed such the flow of water from the swimming pool can be simultaneous from the surface overflow system and the main drains. Skimmer piping constructed after May 1, 2010 shall be sized to handle the maximum flow rate for the required number of skimmers, but in no case less than 100 percent of the design flow rate. Perimeter overflow system piping constructed after May 1, 2010 shall be sized to handle 100 percent of the design flow rate. The main drain piping constructed after May 1, 2010 shall be sized to handle 100 percent of the design flow rate.
- (d) Piping shall be designed to reduce friction losses to a minimum and to carry the required quantity of water at a maximum velocity not to exceed six feet per second for suction piping and not to exceed 10 feet per second for discharge piping except for copper pipe where the velocity shall not exceed eight feet per second. Piping shall be of non-toxic material, resistant to corrosion, and able to withstand operating pressures. If plastic pipe is used, a minimum of Schedule 40 PVC is required. Flexible pipe shall not be used except that flexible PVC hoses that meet NSF Standard 50 may be affixed to spa shells where rigid pipes do not provide the necessary angles to connect circulation components. Exposed pipes and valves shall be identified by a color code or labels.
- (e) The circulation system shall include a strainer to prevent hair, lint, and other debris from reaching the pump. A spare basket shall be provided. Strainers shall be corrosion-resistant with openings not more than ¼ inch (6.4 mm) in size that provide a free flow area at least four times the cross-section area of pump suction line and are accessible for daily cleaning.
- (f) A vacuum cleaning system shall be provided to remove debris and foreign material that settles to the bottom of the swimming pool. Where provided, integral vacuum ports shall be located on the pool wall at least six inches and no greater than 18 inches below the water level. Skimmer vacuums may be used in pools with two or fewer skimmers provided the skimmer basket remains in place while the vacuum is in operation. Integral vacuum cleaning systems shall be provided with valves and protective caps. Integral vacuum ports constructed after May 1,

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; August 1, 2000; April 1, 1999.

15A NCAC 18A .2516 POOL PROFILE

- (a) The vertical walls of a public swimming pool shall not exceed 11 degrees from plumb. Corners formed by intersection of walls and floors shall be coved or radiused. Hopper bottomed pools are prohibited.
- (b) Underwater ledges or protrusions are prohibited; except that underwater stairs, sun shelves, seats and benches may be installed in areas of the pool no more than four feet deep. Underwater benches shall have a maximum seat depth of two feet from the water surface, protrude no more than 18 inches from the wall and be marked by a two inch contrasting color band on the leading edge. Underwater protrusions may provide seating at swim-up bars located in offset areas away from swim lanes. Underwater stairs may adjoin a sun shelf to deeper water provided the depth at the bottom of the stairs is no more than four feet and the stairs meet all provisions of Rule .2521 of this Section.
- (c) The slope of the bottom of any portion of any public swimming pool having a water depth of less than five feet (1.52 m) shall not be more than one foot vertical change in 10 feet (10 cm in one meter) of horizontal distance and the slope shall be uniform.
- (d) In portions of pools with water depths greater than five feet (1.52 m), the slope of the bottom shall not be more than one foot vertical in three feet (33.3 cm in one meter) of horizontal distance.
- (e) Design of diving areas shall be in accordance with Tables 1A and 1B of Rule .2517 of this Section.
- (f) Fountains installed in public swimming pools shall be approved prior to installation and shall comply with the following:
 - (1) Fountains shall not be installed in an area with a water depth exceeding 18 inches;
 - (2) Fountains shall be recommended by the manufacturer for use in a public swimming pool;

2010 shall have self-closing caps designed to be opened with a tool.

(g) A rate-of-flow indicator, reading in liters or gallons per minute, shall be installed on the filtered water line and located so that the rate of circulation is indicated. The indicator shall be capable of measuring flows that are at least 1½ times the design flow rate, shall be accurate within 10 per cent of true flow, and shall be easy to read. The indicator shall be installed in accordance with manufacturers' specifications.

(h) A pump or pumps shall be provided with capacity to recirculate the swimming pool water four times in 24 hours, and shall be so located as to eliminate the need for priming. If the pump or pumps, or suction piping is located above the overflow level of the pool, the pump or pumps shall be self-priming. The pump or pumps shall be capable of providing a flow adequate for the backwashing of filters. Unless headloss calculations are provided by the designing engineer, pump design shall be based on an assumed total dynamic head of 65 feet of water. Pumps three horsepower or smaller shall be NSF International (NSF) listed or verified by an independent third-party testing laboratory to meet all applicable provisions of NSF/ANSI Standard 50 which is incorporated by reference including any subsequent amendments or editions. Copies may be obtained from NSF International, P.O. Box 130140, Ann Arbor, MI 48113-0140 at a cost of one hundred fifty-five dollars (\$155.00). Verification shall include testing and in-plant quality control inspections. Larger pumps for which NSF listing is not available shall be approved by the Department on a case-by-case basis.

(i) Inlets.

- (1) Inlets shall be provided and arranged to produce a uniform circulation of water and maintain a uniform disinfectant residual throughout the pool.
- (2) The number of inlets for any swimming pool shall be determined based on return water flow. There shall be at least one inlet per 20 gallons per minute of return water flow. There shall be a minimum of four inlets for any swimming pool.
- (3) Inlets shall be located so that no part of the swimming pool is more than 25 feet of horizontal distance from the nearest return inlet.
- (4) Provision shall be made to permit adjustment of the flow through each inlet, either with an adjustable orifice or provided with replaceable orifices to permit adjustments of the flows.

(j) Drains.

- (1) Public Swimming pools with suction drains shall be provided with at least two main drain outlets which are located at the deepest section of the pool and connected by "T" piping. Connecting piping shall be sized and configured such that blocking any one drain will not result in flow through the remaining drain cover/grates exceeding the cover/grate manufacturer's safe flow rating while handling 100 percent of the pump system flow. The drains shall be capable of permitting the pool

to be emptied completely. Drains shall be spaced not more than 30 feet apart, and not more than 15 feet away from the side walls. Drains shall be separated by at least three feet measured from centers of the cover/grates. This shall not preclude construction of a public swimming pool without main drains where water is introduced at the bottom of the pool and removed through a surface overflow system designed to handle 100 percent of the design flow rate. Provision shall be made to completely drain pools constructed without drains. Public swimming pools constructed prior to May 1, 2010 with a single drain or multiple drains closer than three feet apart shall protect against bather entrapment with an unblockable drain or a secondary method of preventing bather entrapment in accordance with Rule .2539 of this Section.

- (2) Drain outlets shall comply with the American National Standard ASME/ANSI A112.19.8-2007 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs which is hereby incorporated by reference including any subsequent amendments, editions, and successor standards under the Virginia Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8001 et seq.). Copies may be obtained from ASME, P.O. Box 2300, Fairfield, NJ 07007-2300 at a cost of fifty-three dollars (\$53.00).
- (3) Public swimming pools constructed after May 1, 2010 shall comply with ANSI/APSP -7 2006 American National Standard for Suction Entrapment Avoidance in Swimming Pools, Wading Pools, Spas, Hot Tubs and Catch Basins which is hereby incorporated by reference including any subsequent amendments and editions. Copies may be obtained from APSP, 2111 Eisenhower Avenue, Alexandria, VA 22314 at a cost of three hundred fifty dollars (\$350.00).

(k) Surface Overflow Systems.

- (1) Swimming pools shall be provided with a surface overflow system that is an integral part of the circulation system and that consists of a built-in-place perimeter overflow system, a pre-fabricated perimeter overflow system, or recessed automatic surface skimmers.
- (2) Whenever a built-in-place perimeter overflow system or a pre-fabricated perimeter overflow system is provided, it shall be designed and installed as follows:
 - (A) The system shall be capable of handling 100 percent of the circulation flow without the overflow troughs being flooded;
 - (B) A surge capacity shall be provided either in the system or by use of a

- surge tank; and the total surge capacity shall be at least equal to one gallon per square foot (41L per square meter) of swimming pool water surface area;
- (C) The water level of the swimming pool shall be maintained above the level of the overflow rim of the perimeter overflows, except for the time needed to transfer all of the water that may be in the surge capacity back into the swimming pool after a period of use; provided that this transfer time shall not be greater than 20 minutes;
 - (D) When installed the tolerance of the overflow rim shall not exceed ¼ inch (6.4 mm) as measured between the highest point and the lowest point of the overflow rim;
 - (E) During quiescence, the overflow system shall be capable of providing continuously and automatically a skimming action to the water at the surface of the swimming pool;
 - (F) The overflow troughs shall be installed completely around the perimeter of the swimming pool, except at steps, recessed ladders and stairs;
 - (G) The exposed surfaces of the overflow trough shall be capable of providing a firm and safe hand-hold; and
 - (H) The overflow trough shall be cleanable and shall be of such configuration as to minimize accidental injury.
- (3) Whenever a recessed automatic surface skimmer or skimmers are installed, they shall be designed and constructed in accordance with Section 8 of NSF Standard #50 for circulation system components for swimming pools, spas, or hot tubs. Recessed automatic surface skimmers shall be installed as follows:
- (A) The flow-through rate through any one recessed automatic surface skimmer shall be between 20 gallons per minute and the maximum flow the skimmer is certified for under NSF Standard Number 50;
 - (B) There shall be at least one recessed automatic surface skimmer for each 400 square feet of water surface area of the swimming pool or fraction thereof;
 - (C) When two or more recessed automatic surface skimmers are required, they shall be so located as to minimize interference with each other and as to insure proper and complete skimming of the entire swimming pools water surface; and
 - (D) Skimmers shall not protrude into the swimming pool. Automatic surface skimmer or skimmers without a perimeter overflow system shall be installed so that the operating level of the pool is no more than nine inches below the finished deck level so that the deck can be used as a handhold.
- (l) Where flooded suction on the pump is not possible to prevent cavitation and loss of prime, skimmers shall have a device or other protection to prevent air entrainment in the suction line. The inlet to the equalizer line shall be provided with a grate.
 - (m) Nothing in this Section shall preclude the use of a roll-out or deck-level type of swimming pool. Such designs shall conform to the general provisions relating to surface overflow systems.
 - (n) Nothing in this Section shall preclude the use of a surface overflow system that combines both a perimeter overflow system and a recessed automatic surface skimmer or skimmers.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; April 1, 1999; January 1, 1996; July 1, 1992.

15A NCAC 18A .2521 LADDERS, RECESSED STEPS, AND STAIRS

- (a) If the vertical distance from the bottom of the swimming pool to the deck is over two feet (0.61 m), recessed steps, stairs, or ladders shall be provided in the shallow area of all swimming pools. Recessed steps or ladders shall be provided at the deep portion of all pools; and, if the swimming pool is over 30 feet (9.14 m) wide, such recessed steps or ladders shall be installed on each side near the deep end. A stairway, ladder or set of recessed steps shall be provided every 75 feet along the shallow area perimeter. Where stairs are provided in the shallow area of the pool, one ladder may be deleted in the shallow area for each stairway provided.
- (b) Pool Stairs - The design and construction of pool ladders and stairs shall conform to the following:
 - (1) Stair treads shall have a minimum unobstructed horizontal depth of 10 inches, a maximum horizontal depth of 36 inches, and a minimum unobstructed surface area of 240 square inches.
 - (2) Risers at the centerline of the treads shall have a maximum height of 12 inches and shall be within one inch of a uniform height with the bottom riser height allowed to vary plus or minus two inches from the uniform riser height.
 - (3) Each set of stairs shall be provided with at least one handrail to serve all treads and risers. For stairs wider than 20 feet, additional handrails shall be provided and spaced no more than 10 feet from adjacent handrails or stair ends.

- (A) Handrails, if removable, shall be installed in such a way than they cannot be removed without the use of tools.
 - (B) The leading edge of handrails facilitating stairs and pool entry/exit shall be no more than 18 inches horizontally from the vertical plane of the bottom riser.
 - (C) The outside diameter of handrails shall be between one inch and one and nine-tenths inches.
- (4) The leading edge of stair treads shall be marked with a contrasting color band or line at least two inches (5 cm) wide visible from above the stairs. Use of contrasting color tiles installed in the stair tread is acceptable provided the tiles are spaced no more than one inch (2.5 cm) from the edge of the tread or from adjacent tiles.
 - (5) Swimming pool ladders shall be corrosion-resistant and shall be equipped with slip-resistant treads. All ladders shall be designed to provide a handhold and shall be installed rigidly. There shall be a clearance of not more than six inches (15.3 cm), nor less than three inches (7.6 cm), between any ladder and the swimming pool wall. If the steps are inserted in the walls or if step holes are provided, they shall be of such design that they may be cleaned easily and shall be arranged to drain into the swimming pool to prevent the accumulation of dirt thereon. Step holes shall have a minimum tread of five inches (12.7 cm) and a minimum width of 14 inches (35.6 cm).
 - (6) When step holes or ladders are provided within the swimming pool, there shall be a handrail at each side.
- (3) if the pool is designed for diving, at points to denote the water depths in the diving area; and
 - (4) at both ends of the pool.
 - (b) Depth markers shall be so spaced that the distance between adjacent markers is not greater than 25 feet (7.5 m) when measured along the perimeter of the pool.
 - (c) Depth markers shall be in Arabic numerals at least four inches (10 cm) high and of a color contrasting with the background. Depth markings shall indicate the depth of the pool in feet of water and shall include the word "feet" or symbol "ft" to indicate the unit of measurement. Depth markings installed in pool decks shall provide a slip resistant walking surface.
 - (d) "No Diving" markers shall be provided on the pool deck adjacent to all areas of the pool less than five feet deep. "No Diving" markers shall consist of the words "No Diving" in letters at least four inches high and of a color contrasting with the background or at least a six-by-six inch international symbol for no diving in red and black on a white background. The distance between adjacent markers shall not be more than 25 feet. Posting of "No Diving" markers shall not preclude shallow diving for racing starts and competitive swimming practice.
 - (e) A minimum of ¾ inch diameter safety rope shall be provided at the breakpoint where the slope of the bottom changes to exceed a 1 to 10 vertical rise to horizontal distance at a water depth of five feet (1.5 m) or less. The position of the rope shall be marked with colored floats at not greater than a five-foot spacing and a minimum two inch wide contrasting color band across the pool bottom. Float ropes shall be positioned within two feet on the shallow side of the breakpoint marker.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; January 1, 1996; July 1, 1992.

15A NCAC 18A .2524 LIGHTING AND VENTILATION

- (a) Artificial lighting shall be provided at all pools that are to be used at night, or when natural lighting is insufficient to provide visibility in the pool area.
- (b) Lighting fixtures shall be of such number and design as to illuminate all parts of the pool, the water, the depth markers, signs, entrances, restrooms, safety equipment and the required deck area and walkways.
- (c) Fixtures shall be installed so as not to create hazards such as burning, electrical shock, mechanical injury, or temporary blinding by glare to the bathers, and so that lifeguards, when provided, can see every part of the pool area without being blinded by glare. The illumination shall be sufficient so that the floor of the pool can be seen at all times the pool is in use.
- (d) If underwater lighting is used, it shall provide at least 0.5 watts or 8.35 lumens per square foot of water surface and deck lighting shall provide not less than 10 foot candles of light measured at 6 inches above the deck surface.
- (e) Where underwater lighting is not used, and night swimming is permitted, area and pool lighting combined shall provide not less than 10 foot candles of light to all parts of the pool and required deck area.
- (f) Mechanical ventilation is required for all indoor pools.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; January 1, 1996.

15A NCAC 18A .2523 DEPTH MARKINGS AND SAFETY ROPES

- (a) On swimming pools the depth of the water shall be marked at or above the water surface on the vertical wall of the swimming pool where possible and on the edge of the deck next to the swimming pool. Where depth markers cannot be placed on the vertical walls at or above the water level, other means shall be used; provided the markings shall be visible to persons in the swimming pool. Depth markers shall be placed at the following locations:
 - (1) at the points of maximum and minimum depths;
 - (2) at the transition point where the slope of the bottom changes from the uniform slope of the shallow area;

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; January 1, 1996; July 1, 1992.

15A NCAC 18A .2528 FENCES

(a) Public Swimming pools shall be completely enclosed by a fence, wall, building, or other enclosure, or any combination thereof, which encloses the swimming pool area such that all of the following conditions are met:

- (1) The top of the barrier shall be at least 48 inches above grade measured on the side of the barrier that faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches measured on the side of the barrier that faces away from the swimming pool;
- (2) Openings in the barrier shall not allow passage of a four-inch-diameter sphere and shall provide no external handholds or footholds. Solid barriers that do not have openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints;
- (3) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between the vertical members shall not exceed four inches. Where there are decorative cutouts within the vertical members, spacing within the cutouts shall not exceed 1.75 inches in width;
- (4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between the vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within the vertical members, spacing within the cutouts shall not exceed 1.75 inches in width;
- (5) Maximum mesh size for chain link fences shall be a 2.25 inch square unless the fence is provided with slats fastened at the top or the bottom that reduce the openings to no more than 1.75 inches;
- (6) Where the barrier is composed of diagonal members, the maximum opening formed by the diagonal members shall be no more than 1.75 inches;
- (7) Access gates shall comply with the dimensional requirements for fences and shall be equipped to accommodate a locking device. Effective April 1, 2011, pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device except where a gate attendant

and lifeguard are on duty. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than 54 inches from the bottom of the gate, the release mechanism shall require the use of a key, combination or card reader to open or shall be located on the pool side of the gate at least three inches below the top of the gate, and the gate and barrier shall have no openings greater than 0.5 inch within 18 inches of the release mechanism; and

- (8) Ground level doors and windows opening from occupied buildings to inside the pool enclosure shall be self-closing or child protected by means of a barrier or audible alarm.

(b) Public swimming pool fences constructed prior to May 1, 2010 may vary from the provisions of Paragraph (a) of this Rule as follows:

- (1) the maximum vertical clearance between grade and the bottom of the barrier may exceed two inches, but shall not exceed four inches;
- (2) where the barrier is composed of vertical and horizontal members and the space between vertical members exceeds 1.75 inches, the distance between the tops of the bottom horizontal member and the next higher horizontal member may be less than 45 inches, but shall not be less than 30 inches;
- (3) gates other than pedestrian access gates are not required to have self-latching devices if the gates are kept locked; and
- (4) gates may swing towards a pool where natural topography, landscape position or emergency egress requirements prevent gates from swinging away from the pool.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; April 1, 1999; January 1, 1996; July 1, 1992.

15A NCAC 18A .2531 WADING POOLS

(a) Wading pools shall meet all design specifications for swimming pools and wading pools included in Rules .2512 through .2530 of this Section with the following exceptions:

- (1) Wading pools shall be physically separate from other public swimming pools except that a fill pipe and valve from a swimming pool recirculation system may be used to introduce water to a wading pool.
- (2) Every wading pool shall be equipped with a circulation system that is separate from, and independent of, the circulation system of the swimming pool. Such circulation system shall at least consist of a circulating pump, piping, a filter, a rate-of-flow meter, a disinfectant feeder, two inlets, and one automatic surface

skimmer. Individual components of a wading pool system must meet the criteria of Rule .2518 of this Section.

- (3) The capacity of the circulation system shall be capable of filtering and disinfecting the entire volume of water in the wading pool 12 times in every 24 hours.
- (4) Wading pools shall be equipped with a surface overflow system capable of removing floating material.
- (5) Wading pools shall be no deeper than 24 inches (61 cm) at the deepest point.
- (6) Wading pools' floor slope shall not exceed one foot in 12 feet.
- (7) Wading pools shall be located in the vicinity of the shallow end of the swimming pool, and shall be separated from the swimming pool by a fence or structure similar to that described in Rule .2528 of this Section, that shall be equipped with self-closing and positive self-latching closure mechanisms, and shall be equipped with permanent locking devices. Wading pool entrance gates located inside another public swimming pool enclosure shall open away from the deeper pool. Wading pool fences constructed after April 1, 2000 shall be at least four feet high.
- (8) Wading pools shall be designed to provide at least 10 square feet per child.
- (9) Depth markers are not required at wading pools.
- (10) The free chlorine residual in wading pools shall be maintained at no less than two parts per million.
- (11) Wading pools are not required to provide the lifesaving equipment described in Rule .2530(a) of this Section.

(b) Children's activity pools shall be constructed and operated in accordance with the rules of this Section including the requirements for wading pools with the following exceptions:

- (1) The filter circulation system shall be separate from any feature pump circulation system.
- (2) The filter circulation system for stand-alone children's activity pools shall filter and return the entire water capacity in no more than one hour and shall operate 24 hours a day.
- (3) The disinfectant residual in children's activity pools shall be maintained at a level of at least two parts per million of free chlorine measured in the pool water and at least one part per million in all water features.
- (4) Valves shall be provided to control water flow to the features in accordance with the manufacturers' specifications.
- (5) Children's activity pools built prior to February 1, 2004 that do not comply with this Paragraph may operate as built if no water quality or safety violations occur.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; April 1, 1999; January 1, 1996.

15A NCAC 18A .2532 SPAS AND HOT TUBS

Spas and hot tubs shall meet all design specifications for swimming pools and wading pools included in Rules .2512 through .2530 of this Section with the following exceptions:

- (1) The circulation system equipment shall provide a turnover rate for the entire water capacity at least once every 30 minutes.
- (2) The arrangement of water inlets and outlets shall produce a uniform circulation of water so as to maintain a uniform disinfectant residual throughout the spa.
- (3) A minimum of two inlets shall be provided with inlets added as necessary to maintain required flowrate.
- (4) Water outlets shall be designed so that each pumping system in the spa (filter systems or booster systems if so equipped) provides the following:
 - (a) Where drains are provided, drains shall be unblockable or shall consist of two or more drains connected by a "T" pipe. Connecting piping shall be of the same diameter as the main drain outlet. Filter system drains shall be capable of emptying the spa completely. In spas constructed after April 1, 2000 drains shall be installed at least three feet apart or located on two different planes of the pool structure.
 - (b) Filtration systems shall provide at least one surface skimmer per 100 square feet, or fraction thereof of surface area.
- (5) The water velocity in spa or hot tub discharge piping shall not exceed 10 feet per second (3.05 meters per second); except for copper pipe where water velocity shall not exceed eight feet per second (2.44 meters per second). Suction water velocity in any piping shall not exceed six feet per second (1.83 meters per second).
- (6) Spa recirculation systems shall be separate from companion swimming pools.
 - (a) Where a two-pump system is used, one pump shall provide the required turnover rate, filtration and disinfection for the spa water. The other pump shall provide water or air for hydrotherapy turbulence without interfering with the operation of the recirculation system. The timer switch shall activate only the hydrotherapy pump.

- (b) Where a single two-speed pump is used, the pump shall be designed and installed to provide the required turnover rate for filtration and disinfection of the spa water at all times without exceeding the maximum filtration rates specified in Rule .2519 of this Section. The timer switch shall activate only the hydrotherapy portion of the pump.
 - (c) Where a single one-speed pump is used, a timer switch shall not be provided.
 - (7) A timer switch shall be provided for the hydrotherapy turbulence system with a maximum of 15 minutes on the timer. The switch shall be placed such that a bather must leave the spa to reach the switch.
 - (8) The maximum operational water depth shall be four feet (1.22 m) measured from the water line.
 - (9) The maximum depth of any seat or sitting bench shall be two feet (61 centimeters) measured from the waterline.
 - (10) A minimum height between the top of the spa/hot tub rim and the ceiling shall be seven and a half feet.
 - (11) Depth markers are not required at spas.
 - (12) Steps, step-seats, ladders or recessed treads shall be provided where spa and hot tub depths are greater than 24 inches (61 centimeters).
 - (13) Contrasting color bands or lines shall be used to indicate the leading edge of step treads, seats, and benches.
 - (14) A spa or hot tub shall be equipped with at least one handrail (or ladder equivalent) for each 50 feet (15.2 meters) of perimeter, or portion thereof, to designate points of entry and exit.
 - (15) Where water temperature exceeds 90 degrees Fahrenheit (32 degrees Celsius), a caution sign shall be mounted adjacent to the entrance to the spa or hot tub. It shall contain the following warnings in letters at least ½ inch in height:
 - CAUTION:
 - Pregnant women; elderly persons, and persons suffering from heart disease, diabetes, or high or low blood pressure should not enter the spa/hot tub without prior medical consultation and permission from their doctor;
 - Do not use the spa/hot tub while under the influence of alcohol, tranquilizers, or other drugs that cause drowsiness or that raise or lower blood pressure;
 - Do not use alone;
 - (16) Spas shall meet the emergency telephone and signage requirements for swimming pools in Rule .2530(f).
 - (17) A sign shall be posted requiring a shower for each user prior to entering the spa or hot tub and prohibiting oils, body lotion, and minerals in the water.
 - (18) Spas are not required to provide the lifesaving equipment described in Rule .2530(a) of this Section.
 - (19) In spas less than four feet deep, the slope of the pool wall may exceed 11 degrees from plumb, but shall not exceed 15 degrees from plumb.
- History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; January 1, 2006; July 1, 2004; February 1, 2004; April 1, 1999; January 1, 1996; July 1, 1992.*
- 15A NCAC 18A .2535 WATER QUALITY STANDARDS**
Whenever a public swimming pool is open for use, water quality shall be maintained in accordance with the following:
- (1) The chemical quality of the water shall be maintained in an alkaline condition at all times with the pH between 7.2 and 7.8.
 - (2) The clarity of the water shall be maintained such that the main drain grate is visible from the pool deck at all times.
 - (3) Disinfection shall be provided in accordance with manufacturers' instructions for all pools by a chemical or other process that meets the criteria listed as follows:
 - (a) registered with the U.S. Environmental Protection Agency for pool water or potable water;
 - (b) provides a residual effect in the pool water that can be measured by portable field test equipment;
 - (c) will not impart any immediate or cumulative adverse physiological effects to pool bathers when used as directed;
 - (d) will not produce any safety hazard when stored or used as directed;
 - (e) will not damage pool components or equipment; and

- (f) will demonstrate reduction of total coliform and fecal coliform to a level at least equivalent to free chlorine at a level of one part per million in the same body of water.
- (4) When chlorine is used as the disinfectant, a free chlorine residual of at least one part per million (ppm) shall be maintained throughout the pool whenever it is open or in use. Pools that use chlorine as the disinfectant must be stabilized with cyanuric acid except at indoor pools or where it can be shown that cyanuric acid is not necessary to maintain a stable free chlorine residual. The cyanuric acid level shall not exceed 100 parts per million.
- (5) When bromine or compounds of bromine are used as the disinfectant, a free bromine residual of at least two parts per million, shall be maintained throughout the pool whenever it is open or in use.
- (6) When chlorine or bromine are used as the disinfectant, automatic chemical feeders shall be used. Automatic chlorine or bromine feeders shall be manufactured and installed in accordance with NSF/ANSI Standard number 50. Automatic chlorine and bromine feeder pumps shall be automatically prevented from operating when the circulation pump is not in operation.
- (7) When biguanide is used as the disinfectant, a residual of 30 to 50 parts per million shall be maintained throughout the pool whenever it is open or in use.
- (8) When silver/copper ion systems are used, the copper concentration in the pool water shall not exceed one part per million and a chlorine residual must be maintained in accordance with Item (4) of this Rule.
- (9) The use of chlorine in its elemental (gaseous) form for disinfection of public swimming pools is prohibited.
- (10) Test kits or equipment capable of measuring disinfectant level, pH, and total alkalinity must be maintained at all public swimming pools. Pools using cyanuric acid or chlorinated isocyanurates must have a test kit capable of measuring cyanuric acid levels.
- (11) The pool operator shall inspect the pool at least daily and maintain written records of the operating conditions of each pool. Records shall be maintained at the pool site for a period of not less than six months. Records shall include the following:
 - (a) daily recording of the disinfectant residual in the pool;
 - (b) daily recording of pool water pH;
 - (c) daily recording of water temperature in heated pools; recording of activities pertaining to pool water maintenance including chemical additions and filter backwash cycles;
- (d) weekly recording of total alkalinity and cyanuric acid levels; and
- (e) daily recording of pool drain cover/grate inspection.
- (12) Water temperature in heated swimming pools shall not exceed 90 degrees Fahrenheit (32 degrees Celsius) and in heated spas shall not exceed 104 degrees Fahrenheit (40 degrees Celsius).
- (13) The pool operator shall take the following steps to manage fecal and vomitus accidents:
 - (a) Direct everyone to leave all pools into which water containing the feces or vomit is circulated and do not allow anyone to enter the pool(s) until decontamination is completed;
 - (b) Remove as much of the feces or vomit as possible using a net or scoop and dispose of it in a sewage treatment and disposal system;
 - (c) Raise the free available chlorine concentration to two ppm at a pH of 7.2 to 7.5 and test to assure the chlorine concentration is mixed throughout the pool; and
 - (d) For accidents involving formed stools or vomit, maintain the free available chlorine concentration at two ppm for at least 25 minutes or at three ppm for at least 19 minutes before reopening the pool. For accidents involving liquid stools increase the free chlorine residual and closure time to reach a CT inactivation value of 15,300 then backwash the pool filter before reopening the pool. CT refers to concentration (C) of free available chlorine in parts per million multiplied by time (T) in minutes.

History Note: Authority G.S. 130A-282; Eff. May 1, 1991; Amended Eff. May 1, 2010; February 1, 2004; April 1, 1999; January 1, 1996; July 1, 1992.

15A NCAC 18A .2539 SUCTION HAZARD REDUCTION

- (a) At all public wading pools that use a single main drain for circulation of water, signs shall be posted stating, "WARNING: To prevent serious injury do not allow children in wading pool if drain cover is broken or missing." Signs shall be in letters at least one-half inch in height and shall be posted where they are visible to people entering the wading pool.
- (b) All submerged suction outlets other than vacuum ports shall be protected by anti-entrapment cover/grates in compliance with ASME/ANSI A112.19.8-2007 Suction Fittings for Use in Swimming Pools, Wading Pools, Spas, and Hot Tubs. All

submerged suction fittings shall be installed in accordance with the manufacturer's instructions. Pumping systems that have a single main drain or single submerged suction outlet other than an unblockable drain, or which have multiple outlets separated by less than three feet measured at the centers of the cover grates shall have one or more secondary methods of preventing bather entrapment. Secondary methods of preventing bather entrapment include:

- (1) Safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at the suction outlet when a blockage has been detected, that has been tested by a third party and found to conform to ASME/ANSI standard A112.19.17 which is incorporated by reference including any subsequent amendments or editions. Copies may be obtained from ASME, P.O. Box 2300, Fairfield, NJ 07007-2300 at a cost of forty-five dollars (\$45.00);
- (2) A suction-limiting vent system with a tamper-resistant atmospheric opening;
- (3) A gravity drainage system that utilizes a collector tank;
- (4) An automatic pump shut-off system;
- (5) Drain disablement; or
- (6) Any other system determined by the U.S. Consumer Product Safety Commission to be equally effective as, or better than the systems in Subparagraphs (1) through (5) of this Paragraph.

(c) Prior to issuance of operation permits, owners of all public swimming pools shall provide documentation to the Department to verify suction outlet safety compliance. This documentation shall include:

- (1) Documentation of the maximum possible flow rate for each pump suction system. This shall be the maximum pump flow shown on the manufacturer's pump performance curve except where flow reductions are justified with total dynamic head measurements or calculations; and
- (2) Documentation that cover/grates meeting ASME/ANSI A112.19.8-2007 are installed in compliance with the standard and manufacturer's instructions. This includes documentation that each cover/grate on a single or double-drain pump suction system is rated to meet or exceed the maximum pump system flow and that cover/grates on a pump suction system with three or more suction outlets are together rated to always meet or exceed the maximum pump system flow with one drain completely blocked; and
- (3) Documentation that drain sumps meet the dimensional requirements specified in the cover/grate manufacturer's installation instructions.

(d) Operators of all public swimming pools shall inspect pools daily to ensure the drain covers are in good condition and securely attached. Missing, broken, or cracked suction fittings shall be replaced and loose suction fittings shall be reattached before using the pool.

History Note: Authority G.S. 130A-282; Temporary Adoption Eff. June 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Eff. October 1, 1994; Amended Eff. May 1, 2010; January 1, 2006; February 1, 2004; April 1, 1999.

15A NCAC 28 .0301 UNAUTHORIZED ENTRY

No person shall enter or remain on Aquarium property during hours when the facility is not open to the public except for on-duty employees, contractors or agents of the Aquarium; law enforcement, fire and emergency personnel; and others authorized to use the property in connection with an Aquarium or Aquarium Society sponsored event, or unless accompanied by an authorized employee of the Aquarium or permission has been granted by the Aquarium Director for the safety and well-being of the employees, exhibits, or captive animals.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b); Eff. February 1, 1987; Transferred and Recodified from 01 NCAC 12 .1101 Eff. August 1, 2007; Amended Eff. May 1, 2010.

15A NCAC 28 .0502 SALES OF ALCOHOL OR CONTROLLED SUBSTANCES

No person shall sell or attempt to sell controlled or illegal substances or any other intoxicating or impairing substance on Aquarium property. Beer and wine may be sold pursuant to a valid Alcohol Beverage Control permit at an event held at the Aquarium if written approval is given by the Division Director prior to the event. The Director's approval shall be given when the applicant agrees that the beverages' alcohol content will not exceed 16 percent, the alcoholic beverages will be served through an insured caterer or purchased directly from a wholesaler, bartenders will have received Alcohol Law Enforcement bartender training, and alcohol service will be discontinued at least 30 minutes prior to the conclusion of the event.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b); Eff. February 1, 1987; Amended Eff. May 1, 2010.

15A NCAC 28 .0503 CONSUMPTION OF ALCOHOL

Alcoholic beverages that do not exceed 16 percent alcohol may be served and consumed on Aquarium property upon prior written approval of the Division Director. The Director's approval shall be given when the applicant agrees that the

alcoholic beverages will be served pursuant to an approved event and by an insured caterer or purchased directly from a wholesaler; bartenders will have received Alcohol Law Enforcement bartender training; and alcohol service will be discontinued at least 30 minutes prior to the conclusion of the event.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

15A NCAC 28 .0504 PETS

Pets are not allowed in the Aquarium buildings. Service animals whose handlers attest to the animal's status are allowed inside the buildings. Pets are allowed on the grounds provided they remain at all times under the owners' control and are restrained by a leash. Any animal causing a nuisance or left unattended on Aquarium property shall be removed by the owner upon the request of the Aquarium Director. Pet owners shall pick up their animal's waste from Aquarium grounds and dispose of it.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

15A NCAC 28 .0602 ADVERTISING

The Aquarium Director shall grant written permission for notices and advertisements to be displayed on Aquarium property when they are related to tourist attractions or conservation events.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

15A NCAC 28 .0603 PHOTOGRAPHS

No person shall take photographs, video tapes or movies of the Aquarium facilities or on Aquarium property for commercial purposes without the permission of the Aquarium Director. Permission shall be granted when the activity is conducted at a time and in a manner that does not expose the Aquarium's visitors, employees or captive animals to harm.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

15A NCAC 28 .0604 LOGOS: SLOGANS: ETC

No person shall use, adopt or modify any logos, names or slogans of the N.C. Aquariums or the N.C. Aquarium Society without prior written permission of the Division Director. Permission shall be granted when the use, adoption or modification does not cause harm to the Aquariums' image or mislead the public.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

15A NCAC 28 .0605 SOLICITATIONS

Persons engaged in fundraising activities sponsored by the N.C. Aquarium Society for the purpose of supporting the Aquariums or Society may solicit contributions on Aquarium property. Non-profit users may engage in fundraising activities as part of an approved event held on Aquarium property.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

15A NCAC 28 .0701 FLOWERS: PLANTS: ANIMALS: ETC.

Unless authorized by Aquarium employees or agents acting in performance of their duties or for the safety and well-being of the captive animals, visitors, employees or exhibits, no person may feed, remove, dispose of or otherwise handle any animal or plant life, whether marine or terrestrial, or remove sand or other minerals owned or controlled by the Aquarium.

History Note: Authority G.S. 143B-289.41(a)(1b); 143B-289.41(b);
Eff. February 1, 1987;
Amended Eff. May 1, 2010.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 17 – BOARD OF DIETETICS/NUTRITION

21 NCAC 17 .0401 INDIVIDUALS AIDING THE PRACTICE OF DIETETICS/NUTRITION

(a) As used in this Section, the following terms and phrases, which have not already been defined in G.S. 90, Article 25, shall have the meanings specified:

- (1) "Certified Dietary Manager" means an individual who is certified by the Certifying Board of the Dietary Managers.
- (2) "Dietetic Technician Registered" or "DTR" means an individual who is registered by the Commission on Dietetic Registration of the American Dietetic Association.
- (3) "Direct supervision" as referenced in G.S. 90-368(4) means that a licensed dietitian/nutritionist shall:
 - (A) be available for consultation on delegated nutrition care activities being performed by the person being supervised, either through on-site or through electronic communication, and shall be available to render

assistance when needed to the unlicensed personnel and patient or client, or shall have arranged for another licensee to be available in the absence of the licensed dietitian/nutritionist; provided that the licensed dietitian/nutritionist shall be on-site at the service delivery site and within audible and visual range of any unlicensed personnel person described in Subparagraph (b)(3) of this Rule for the provision of any nutrition care activities;

- (B) directly and personally examine, evaluate and approve the acts or functions of the person supervised; and
- (C) meet with the unlicensed personnel in a joint effort to establish, maintain and elevate a level of performance to ensure the health, safety and welfare of clients or patients during the provision of nutrition care activities, and provide sufficient guidance and direction as to enable the unlicensed personnel to competently perform the delegated activity or function.

(4) "Nutrition care activities" means activities performed by unlicensed personnel which are delegated by licensed dietitians/nutritionists in accordance with Paragraphs (c) and (d) of this Rule and which support the provision of nutrition care services as referenced in G.S. 90-352(4). Nutrition care activities include the provision of nutrition care to address and mitigate a medical condition, illness or injury and the provision of weight control programs or services, as well as community nutrition, food service, and nutrition information or education.

(b) Unlicensed personnel aiding the practice of dietetics/nutrition may include the following:

- (1) a Certified Dietary Manager;
- (2) a Dietetic Technician Registered; or
- (3) an individual who has met the academic requirements as referenced in G.S. 90-357(3)b.1, c.1 and d.

(c) The licensed dietitian/nutritionist may delegate nutrition care activities to unlicensed personnel that are appropriate to the level of knowledge and skill of the unlicensed personnel. The licensed dietitian/nutritionist shall be responsible for the initial and ongoing determination of the competence of the unlicensed personnel to perform any delegated acts or functions. Delegation of nutrition care activities shall be in writing and shall identify the patient or client and the act or function assigned to the unlicensed personnel. The licensed dietitian/nutritionist shall supervise the nutrition care activities of the unlicensed personnel and maintain responsibility for nutrition care activities performed by all personnel to whom the care is delegated. The

licensed dietitian/nutritionist shall not delegate the entire spectrum of nutrition care services, but may delegate specific acts and functions which support the licensed dietitian/nutritionist's provision of nutrition care services. The licensed dietitian/nutritionist shall have the responsibility for clinical record keeping, and shall ensure that case notes and other records of services identify whether the licensed dietitian/nutritionist or the unlicensed personnel was the direct provider of the service.

(d) The following variables shall be considered by the licensed dietitian/nutritionist in determining whether or not an activity or function may be delegated to unlicensed personnel:

- (1) knowledge and skills of the unlicensed personnel which include both basic educational and experience preparation and continuing education and experience;
- (2) the competence of the unlicensed personnel for the activity or function;
- (3) the variables in each service setting which include:
 - (A) the complexity and frequency of nutrition care needed by a given client population;
 - (B) the acuity and stability of the client's condition; and
 - (C) established policies, procedures, practices, and channels of communication of the facilities where the delegated activities or functions are being performed which lend support to the types of nutrition care activities being delegated, or not delegated, to unlicensed personnel; and
- (4) whether the licensed dietitian/nutritionist has the skills, experience and ability to competently supervise the unlicensed personnel for the activity or function.

History Note: Authority G.S. 90-356(2); 90-368(4); Eff. March 1, 1996; Amended Eff. May 1, 2010; July 18, 2002.

CHAPTER 38 - BOARD OF OCCUPATIONAL THERAPY

21 NCAC 38 .0302 LICENSE RENEWAL

(a) Any licensee desiring the renewal of a license shall apply for renewal and shall submit the renewal application, documentation of continuing competence activities, and the fee. Occupational therapy assistants who are employed must also include evidence of required supervision.

(b) Licenses not renewed by June 30 are expired. Persons whose licenses are expired for 24 months or less and who desire to be licensed shall apply for and complete the requirements to renew the license. The person shall also provide proof of 15 points of continuing competence activities for the last year the

license was current and for each full year the person's license was expired.

(c) Any person whose license is expired and who engages in any occupational therapy activities governed by the occupational therapy law shall be subject to the penalties prescribed in G.S. 90-270.76, 90-270.79, 90-270.80 and 90-270.80A.

(d) Licenses expired in excess of 24 months shall not be renewed. Persons whose licenses are expired in excess of 24 months and who desire to be licensed shall apply for and complete the requirements for a new license.

(e) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return are granted that same extension of time to pay the license renewal fee and to complete the continuing competence activity requirement prescribed in 21 NCAC 38 .0800. A copy of military orders or the extension approval by the Internal Revenue Service must be furnished to the Board. If approved, continuing competence activity points acquired during this extended time period shall not be utilized for future renewal purposes.

History Note: Authority G.S. 90-270.69(4); 90-270.75; 93B-15(b); 105-249.2; Eff. July 1, 1985; Amended Eff. May 1, 2010; July 1, 2007; May 1, 1989.

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

23 NCAC 02C .0301 ADMISSION TO COLLEGES

(a) Each college shall maintain an open-door admission policy to all applicants who are legal residents of the United States and who are either high school graduates or are at least 18 years of age. Student admission processing and placement determination shall be performed by the officials of each college. Admission requirements for an emancipated minor shall be the same as for an applicant 18 years old or older. Provisions with respect to admission of minors are set forth in Rule .0305 of this Section.

(b) For the purposes of this Section, "undocumented immigrant" means any immigrant who is not lawfully present in the United States. Community colleges shall admit undocumented immigrants under the following conditions:

- (1) Community colleges shall admit an undocumented immigrant only if he or she attended and graduated from a United States public high school, private high school, or home school that operates in compliance with State or local law;
- (2) When determining who is an undocumented immigrant, community colleges shall use federal immigration classifications;
- (3) Undocumented immigrants admitted under Subparagraph (b)(1) of this Rule must comply with all federal and state laws concerning financial aid;
- (4) An undocumented immigrant admitted under Subparagraph (b)(1) of this Rule shall not be

considered a North Carolina resident for tuition purposes. All undocumented immigrants admitted under Subparagraph (b)(1) of this Rule must be charged out of state tuition whether or not they reside in North Carolina;

(5) When considering whether to admit an undocumented immigrant into a specific program of study, community colleges shall take into account that federal law prohibits states from granting professional licenses to undocumented immigrants; and

(6) Students lawfully present in the United States shall have priority over any undocumented immigrant in any class or program of study when capacity limitations exist.

(c) Boards of trustees may adopt policies regulating admission and graduation of students enrolled in courses mandated under G.S. 17C, North Carolina Criminal Justice Education and Training Standards Commission, or G.S. 17E, North Carolina Sheriffs' Education and Training Standards Commission. These policies may limit enrollment to law enforcement officers or persons sponsored by law enforcement agencies and may require a student to maintain sponsorship by a law enforcement agency until completion of the program. Policies adopted pursuant to this Paragraph shall be published and made available to students and prospective students.

(d) Any college suspending or expelling a student for non-academic disciplinary purposes shall record the suspension or expulsion in the student's educational record. Upon receipt of a written request signed by the student and subject to all applicable privacy laws, each college shall, in accordance with the student's request, inform other colleges and universities of the term and circumstances of the student's non-academic disciplinary suspension or expulsion, if any. Boards of trustees may adopt policies refusing admission to any applicant during any period of time that the student is suspended or expelled from any other educational entity.

History Note: Authority G.S. 115D-1; 115D-5; 115D-20; Eff. February 1, 1976; Amended Eff. January 1, 2006; January 1, 1996; September 1, 1993; May 1, 1992; January 1, 1987; Amended Eff. Pending Legislative Review.

23 NCAC 02C .0505 NONCERTIFIED SOURCE PURCHASES

(a) Community colleges may purchase the same or substantially similar supplies, equipment, and materials from noncertified sources as provided in G.S. 115D-58.5(b) and G.S. 115D-58.14. "Substantially similar" is defined as having comparable, but not identical characteristics in terms of quality, service and performance as items available under State term contracts.

(b) Each college shall submit to the System Office an annual report showing the number of purchases made from noncertified sources for supplies, equipment, or materials; the amount of funds expended for each purchase; and the amount of funds that would have been expended under state contract. When exercising the purchasing authority granted by G.S. 115D-58.14,

each college shall also document the use of this authority on the purchase order.

(c) The System Office shall monitor the use of noncertified source purchases and shall make an annual report to the State Board. The report shall include the number of noncertified source purchases made by the colleges and the amount of funds expended.

History Note: Authority G.S. 115D-5; 115D-20; 115D-58.14; S.L. 2009-132;
Temporary Adoption Eff. October 21, 1998;
Temporary Adoption Expired August 13, 1999;
Eff. August 1, 2000;
Amended Eff. May 1, 2010.

TITLE 25 – OFFICE OF STATE PERSONNEL

25 NCAC 01E .1009 OTHER MANAGEMENT APPROVED LEAVE

(a) Other Management Approved Leave provides paid time off for miscellaneous reasons as set forth in these Rules. These Rules apply to full-time and part-time (half-time or more) employees who have a permanent, probationary, time-limited permanent or trainee appointment;

(b) Employee shall request Other Management Approved Leave at least two weeks before the leave is needed, unless such notice is impractical; and

(c) If an employee's job responsibilities include attendance at the activity, it is not leave. It is a work assignment and will be included in hours worked for purposes of computing overtime for FLSA non-exempt employees.

History Note: Authority G.S. 126-4(5);
Eff. May 1, 2010.

25 NCAC 01E .1010 NON-DISCRETIONARY TYPES OF OTHER MANAGEMENT APPROVED LEAVE

(a) An appointing authority shall grant leave with pay to an employee for any of the following purposes:

- (1) to prepare for participation in his or her internal agency grievance or mediation procedure in accordance with 25 NCAC 01J .1208(a);
- (2) to participate in contested case hearings or other administrative hearings in accordance with 25 NCAC 01J .1208(b);
- (3) to place an employee on investigatory status as provided in 25 NCAC 01J .0615;
- (4) to locate and move to a new residence, within the limits allowed by policy, when a transfer is required by the agency in accordance with 25 NCAC 01E .1004;
- (5) to attend workers' compensation hearings;

- (6) to serve on state commissions, councils, boards and committees established by the General Assembly or other bodies established by the Governor and Council of State;
- (7) because of a smallpox vaccination in accordance with G.S. 126-8.4;
- (8) to train for and compete in Pan American, Olympic or international athletic competition in accordance with G.S. 126-8.1; and
- (9) to cover time that an agency is closed for emergencies in accordance with 25 NCAC 01E .1005 and the Adverse Weather and Emergency Closings Policy.

(b) There shall be no loss of pay or other leave time associated with leave under this Rule.

History Note: Authority G.S. 126-4(5);
Eff. May 1, 2010.

25 NCAC 01E .1011 DISCRETIONARY TYPES OF OTHER MANAGEMENT APPROVED LEAVE

(a) An appointing authority may grant leave with pay to an employee for any of the following purposes:

- (1) to participate in volunteer emergency and rescue services in accordance with 25 NCAC 01E .1607(a) and (b);
- (2) to participate in specialized disaster relief services with the American Red Cross in accordance with 166A-30-166A-32;
- (3) to donate blood and bone marrow in accordance with 25 NCAC 01E .1607(c);
- (4) to donate organs up to 30 days in accordance with 25 NCAC 01E .1607(c);
- (5) to reward an employee for a suggestion that is adopted under the NC Thinks Program or under the agency's Governor's Awards for Excellence Program in accordance with 25 NCAC 01E .0212; and
- (6) to attend conferences that are associated with an employee's work, but that are not required as a work assignment.

(b) The standards for granting leave with pay shall be left to each agency. There shall be no loss of pay or leave time associated with leave under this Rule.

History Note: Authority G.S. 126-4(5);
Eff. May 1, 2010.

25 NCAC 01E .1701 SMALLPOX VACCINATION

History Note: Authority G.S. 126-4; 126-8.4;
Temporary Adoption Eff. June 26, 2003;
Eff. January 1, 2004;
Repealed Eff. May 1, 2010.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday, November 19, 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. Funderburk - 1st Vice Chair
David Twiddy - 2nd Vice Chair
Ralph A. Walker
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 17, 2010 July 15, 2010
August 15, 2010 September 16, 2010

AGENDA

RULES REVIEW COMMISSION
Thursday, June 17, 2010 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. Office of the Commissioner of Banks – 04 NCAC 03M .0101, .0205 (DeLuca)
 - B. Office of the Commissioner of Banks – 04 NCAC 03M .0301, .0401, .0604 (DeLuca)
 - C. Board of Chiropractic Examiners – 21 NCAC 10 .0206 (Bryan)
 - D. Board of Cosmetic Art Examiners – 21 NCAC 14I .0401 (Bryan)
 - E. Board of Cosmetic Art Examiners – 21 NCAC 14N .0110, .0113, .0115 (Bryan)
 - F. Board of Cosmetic Art Examiners – 21 NCAC 14P .0111 (Bryan)
 - G. Board of Pharmacy – 21 NCAC 46 .1418 (DeLuca)
 - H. Real Estate Commission – 21 NCAC 58E .0602 (DeLuca)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between April 21, 2010 and May 20, 2010
- V. Review of Log of Filings (Temporary Rules)
- VI. Commission Business
 - Next meeting: July 15, 2010

Commission Review
Log of Permanent Rule Filings
April 21, 2010 through May 20, 2010

AGRICULTURE, COMMISSIONER OF

The rules in Chapter 9 are from the Food and Drug Protection Division.

The rules in Subchapter 9M concern Drugs.

<u>Adoption by Reference</u>	02	NCAC 09M .0102
Adopt/*		
<u>Duty to Verify Suppliers</u>	02	NCAC 09M .0103
Adopt/*		

AGRICULTURE, BOARD OF

The rules in Chapter 20 concern the North Carolina State Fair.

The rules in Subchapter 20B concern regulations of the state fair including general provisions (.0100); space rental: commercial exhibit and concession regulations (.0200); competitive exhibit regulations (.0300); and operation of state fair facilities (.0400).

<u>Admission Rules</u>	02	NCAC 20B .0104
Amend/*		

STRUCTURAL PEST CONTROL COMMITTEE

The rules in Chapter 34 are from the Structural Pest Control Division and include introduction and definitions (.0100); the structural pest control committee (0200); licensing and certification (.0300); public safety (.0400); wood-destroying organisms (.0500); wood-destroying organisms agreements (.0600); household pesticides (.0700); fumigation (.0800); duties and responsibilities of licensee (.0900); time for filing complaints (.1000); inspection fees (.1100); and administrative hearings: contested cases (.1200).

<u>Subphase P, W, and F Consultant's Licensure</u>	02	NCAC 34 .0331
Adopt/*		
<u>Subterranean Termite Control: Buildings After Constructed</u>	02	NCAC 34 .0503
Amend/*		
<u>Re-Inspections</u>	02	NCAC 34 .1103
Amend/*		

AGRICULTURE, BOARD OF

The rules in Chapter 48 are Department of Agriculture rules governing the plant industry, including plant protection, fertilizer, seeds, liming materials and landplaster, and genetically engineered organisms.

The rules in Subchapter 48A are plant protection rules directed at specific plant problems or methods of protection including the honey and bee industry (.0200); protection against the boll weevil (.0600); vegetable plant certification (.1000); tobacco plant certification (.1100); and control of noxious weeds (.1700).

<u>Fees</u>	02	NCAC 48A .1205
Amend/*		
<u>Collected Plant Certificate</u>	02	NCAC 48A .1209
Amend/*		

The rules in Chapter 52 are from the Veterinary Division.

The rules in Subchapter 52B cover animal diseases, treatment, and protection including quarantine (.0100), admission of livestock to North Carolina (.0200), brucellosis regulations (.0300), equine infectious anemia (.0400), poultry diseases (.0500), poultry hatcheries (.0600); and scrapie disease (.0700).

<u>Importation Requirements: Avian Species</u>	02	NCAC 52B .0210
Repeal/*		

<u>Health Regulations for Poultry Exhibitions</u> Amend/*	02	NCAC 52B .0502
<u>Avian Influenza (H5N2)</u> Repeal/*	02	NCAC 52B .0505
<u>Entry of Avian Species into the State of North Carolina</u> Amend/*	02	NCAC 52B .0603
<u>Poultry and Ratite Dealers: Licensing and Records</u> Adopt/*	02	NCAC 52B .0608

CHILD CARE COMMISSION

The rules in Chapter 9 concern child care rules and include definitions (.0100); general provisions related to licensing (.0200); procedures for obtaining a license (.0300); issuance of provisional and temporary licenses (.0400); age and developmentally appropriate environments for centers (.0500); safety requirements for child care centers (.0600); health and other standards for center staff (.0700); health standards for children (.0800); nutrition standards (.0900); transportation standards (.1000); building code requirements for child care centers (.1300); space requirements (.1400); temporary care requirements (.1500); requirements for voluntary enhanced program standards (.1600); family child care home requirements (.1700); discipline (.1800); special procedures concerning abuse/neglect in child care (.1900); rulemaking and contested case procedures (.2000); religious-sponsored child care center requirements (.2100); administrative actions and civil penalties (.2200); forms (.2300); child care for mildly ill children (.2400); care for school-age children (.2500); child care for children who are medically fragile (.2600); criminal records checks (.2700); voluntary rated licenses (.2800); and development day services (.2900).

<u>Definitions</u> Amend/*	10A	NCAC 09 .0102
<u>Application for a License for a Child Care Center</u> Amend/*	10A	NCAC 09 .0302
<u>On-Going Requirements for a Permit</u> Amend/*	10A	NCAC 09 .0304
<u>Staff/Child Interactions</u> Adopt/*	10A	NCAC 09 .0501
<u>Developmental Day Centers</u> Amend/*	10A	NCAC 09 .0505
<u>Activity Schedules and Plans for Centers</u> Amend/*	10A	NCAC 09 .0508
<u>Activities: General Requirements for Centers</u> Amend/*	10A	NCAC 09 .0509
<u>Activity Areas: Preschool Children Two Years and Older</u> Amend/*	10A	NCAC 09 .0510
<u>Activities for Children Two Years of Age</u> Amend/*	10A	NCAC 09 .0511
<u>General Safety Requirements</u> Amend/*	10A	NCAC 09 .0604
<u>Safe Sleep Policy</u> Amend/*	10A	NCAC 09 .0606
<u>Health Standards for Staff</u> Amend/*	10A	NCAC 09 .0701
<u>Standards for Substitutes and Volunteers</u> Amend/*	10A	NCAC 09 .0702
<u>Emergency Medical Care</u> Amend/*	10A	NCAC 09 .0802
<u>General Nutrition Requirements</u> Amend/*	10A	NCAC 09 .0901
<u>Aquatic Activities</u> Amend/*	10A	NCAC 09 .1403

<u>Building Approval for School-Aged Children</u> Repeal/*	10A NCAC 09 .1505
<u>Application for a License for a Family Child Care Home</u> Amend/*	10A NCAC 09 .1702
<u>Caregiver Interactions</u> Adopt/*	10A NCAC 09 .1703
<u>Requirements for Daily Operations</u> Amend/*	10A NCAC 09 .1718
<u>Requirements for Records</u> Amend/*	10A NCAC 09 .1721
<u>Safe Sleep Policy</u> Amend/*	10A NCAC 09 .1724
<u>Administrative Penalties General Provision</u> Amend/*	10A NCAC 09 .2201
<u>Retention of Forms and Reports by a Child Care Operator</u> Amend/*	10A NCAC 09 .2318
<u>Scope</u> Amend/*	10A NCAC 09 .2501
<u>Special Provisions for Licensure</u> Amend/*	10A NCAC 09 .2502
<u>Building Code Requirements</u> Amend/*	10A NCAC 09 .2503
<u>Space Requirements</u> Amend/*	10A NCAC 09 .2504
<u>Health Requirements for Children</u> Amend/*	10A NCAC 09 .2505
<u>General Safety Requirements</u> Amend/*	10A NCAC 09 .2506
<u>Age Appropriate Activities</u> Amend/*	10A NCAC 09 .2508
<u>Staff Qualifications</u> Amend/*	10A NCAC 09 .2510
<u>Scope</u> Amend/*	10A NCAC 09 .2801
<u>Application for a Voluntary Rated License</u> Amend/*	10A NCAC 09 .2802
<u>Program Standards for a Three Component Rated License for...</u> Repeal/*	10A NCAC 09 .2803
<u>Staff/Child Ratios for a Three Component Rated License</u> Repeal/*	10A NCAC 09 .2810
<u>Education Standards for a Rated Licensue for Child Care C...</u> Repeal/*	10A NCAC 09 .2811
<u>Education Standards for Centers that Provide Care Only to...</u> Repeal/*	10A NCAC 09 .2812
<u>Compliance History Standards for a Rated License for Chil...</u> Repeal/*	10A NCAC 09 .2813
<u>Program Standards for a Rated License for Family Child Ca...</u> Repeal/*	10A NCAC 09 .2814
<u>Education Standards for a Rated License for Family Child ...</u> Repeal/*	10A NCAC 09 .2815
<u>Compliance History Standards for a Rated License for Fami...</u> Repeal/*	10A NCAC 09 .2816

<u>Scope</u> Adopt/*	10A NCAC 09 .2901
<u>License</u> Adopt/*	10A NCAC 09 .2902
<u>Staff Qualifications</u> Adopt/*	10A NCAC 09 .2903
<u>Program Requirements</u> Adopt/*	10A NCAC 09 .2904
<u>Family Services</u> Adopt/*	10A NCAC 09 .2905

INSURANCE, DEPARTMENT OF

The rules in Chapter 12 cover life and health insurance including general provisions applicable to all rules and all life and health insurance policies (.0100 - .0300); general life insurance provisions (.0400); general accident and health insurance provisions (.0500); replacement of insurance (.0600); credit insurance (.0700); medicare supplement insurance (.0800); long-term care insurance (.1000); mortgage insurance consolidations (.1100); accelerated benefits (.1200); small employer group health coverage (.1300); HMO and point-of-service coverage (.1400); uniform claim forms (.1500); retained asset accounts (.1600); viatical settlements (.1700); preferred provider plan product limitations (.1800); and domestic violence - prohibited acts (.1900).

<u>Review/Audit of Third Party Administrators</u> Adopt/*	11 NCAC 12 .0332
<u>Refund of Unearned Premium for Credit Insurance</u> Adopt/*	11 NCAC 12 .0714

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Subchapter 7D cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator and counterintelligence (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); courier (.1200); and continuing education (.1300).

<u>Fees for Licenses and Trainee Permits</u> Amend/*	12 NCAC 07D .0202
<u>Fees for Unarmed Security Guard Registration</u> Amend/*	12 NCAC 07D .0702
<u>Fees for Armed Security Guard Firearm Registration Permit</u> Amend/*	12 NCAC 07D .0802

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 11 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); license applications and requirements (.0200); registration of employees of licensees (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

<u>Renewal or Re-issue of License</u> Amend/*	12 NCAC 11 .0204
<u>Renewal or Reregistration of Registration</u> Amend/*	12 NCAC 11 .0306
<u>Accreditation Standards</u> Amend/*	12 NCAC 11 .0503

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 2D are air pollution control requirements including definitions and references (.0100); air pollution sources (.0200); air pollution emergencies (.0300); ambient air quality standards (.0400); emission control standards (.0500); air pollutants monitoring and reporting (.0600); complex sources (.0800); volatile organic compounds (.0900); motor vehicle emission control standards (.1000); control of toxic air pollutants (.1100); control of emissions from incinerators (.1200); oxygenated gasoline standard (.1300); nitrogen oxide standards (.1400); transportation conformity (.1500); general conformity for federal actions (.1600); emissions at existing municipal solid waste landfills (.1700); control of odors (.1800); open burning (.1900); transportation conformity (.2000); risk management program (.2100); special orders (.2200); emission reduction credits (.2300); clean air interstate rules (.2400); mercury rules for electric generators (.2500); and source testing (.2600).

Large Municipal Waste Combustors

15A NCAC 02D .1205

Adopt/*

Small Municipal Waste Combustors

15A NCAC 02D .1212

Adopt/*

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 12 concern parks and recreation areas.

The rules in Subchapter 12B concern parks and recreation areas including general provisions (.0100); preservation of the park (.0200); bathing (.0300); refuse and rubbish (.0400); traffic and parking (.0500); boating and camping (.0600); sports and games (.0700); hunting and fishing (.0800); firearms, explosives, fires, etc. (.0900); disorderly conduct, public nuisance, etc. (.1000); commercial enterprises, advertising, meetings, exhibitions, etc. (.1100); and miscellaneous (.1200).

Fees and Charges

15A NCAC 12B .1206

Amend/*

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

Premises: Miscellaneous Vermin Control

15A NCAC 18A .2633

Amend/*

TRANSPORTATION, DEPARTMENT OF

The rules in Chapter 3 are from the Division of Motor Vehicles.

The rules in Subchapter 3D are from the enforcement section and include general information (.0100); motor vehicle dealer, sales, distributor and factory representative license (.0200); motor vehicle thefts (.0300); notice of sale and store vehicles (.0400); general information regarding safety inspection of motor vehicles (.0500); weight of vehicles and registration enforcement (.0600); approval of motor vehicles safety equipment (.0700); safety rules and regulations (.0800); and approval of sun screening devices (.0900).

Definitions

19A NCAC 03D .0517

Amend/*

<u>Licensing of Safety or Exhaust Emissions Inspection Stations</u> Amend/*	19A NCAC 03D .0518
<u>Stations</u> Amend/*	19A NCAC 03D .0519

CERTIFIED PUBLIC ACCOUNTANT EXAMINERS, BOARD OF

The rules in Chapter 8 are from the N C State Board of Certified Public Accountant Examiners.

The rules in Subchapter 8H are reciprocity rules.

<u>Use of CPA Title</u> Repeal/*	21 NCAC 08H .0105
<u>Non-Resident Notification</u> Repeal/*	21 NCAC 08H .0106

The rules in Subchapter 8J concern renewals and registrations.

<u>Forfeiture or Inactivation of Certificate and Reissuance...</u> Amend/*	21 NCAC 08J .0106
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The rules in Subchapter 8K concern professional corporations and professional limited liability companies including general provisions (.0100); practice procedures of professional corporations and professional limited liability companies (.0200); and registered limited liability partnerships.

<u>Registration and Renewal</u> Amend/*	21 NCAC 08K .0104
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The rules in Subchapter 8N are professional ethics and conduct rules including scope and applicability (.0100), rules applicable to all CPAs (.0200), rules applicable to CPAs who use the CPA title in offering or rendering products or services to clients (.0300), and rules applicable to CPAs performing attest services (.0400).

<u>Accounting Principles</u> Amend/*	21 NCAC 08N .0209
<u>Forecasts</u> Amend/*	21 NCAC 08N .0210
<u>Responsibilities in Tax Practice</u> Amend/*	21 NCAC 08N .0211
<u>Outsourcing to Third-Party Service Providers</u> Amend/*	21 NCAC 08N .0214
<u>Consulting Services Standards</u> Amend/*	21 NCAC 08N .0304
<u>Valuation Services Standards</u> Amend/*	21 NCAC 08N .0308
<u>Auditing Standards</u> Amend/*	21 NCAC 08N .0403
<u>Accounting and Review Services Standards</u> Amend/*	21 NCAC 08N .0404
<u>Governmental Accounting Standards</u> Amend/*	21 NCAC 08N .0405
<u>Attestation Standards</u> Amend/*	21 NCAC 08N .0406

COSMETIC ART EXAMINERS, BOARD OF

The rules in Subchapter 14A are the Cosmetic Art Board of Examiners departmental rules including organizational rules (.0100); and license renewal waiver for armed forces (.0400).

<u>Definitions</u>	21	NCAC 14A .0101
Amend/*		
<u>Office Hours</u>	21	NCAC 14A .0103
Repeal/*		

The rules in Subchapter 14B concern rule-making procedures including petitions for rule-making (.0100); notice (.0200); hearings (.0300); declaratory rulings (.0500); and fees (.0600).

<u>Cosmetologist License Fee and Staggered License Renewal S...</u>	21	NCAC 14B .0605
Amend/*		

The rules in Subchapter 14F govern all aspects of licensing a beauty salon.

<u>Dimensions of Beauty Salon</u>	21	NCAC 14F .0107
Amend/*		

The rules in Subsection 14G give the requirements for the establishment of cosmetic art schools.

<u>Condition of Equipment</u>	21	NCAC 14G .0112
Amend/*		

The rules in Subchapter 14H are sanitation rules for both operators and facilities.

<u>Bathroom Facilities</u>	21	NCAC 14H .0110
Amend/*		
<u>Animals</u>	21	NCAC 14H .0117
Amend/*		

The rules in Subchapter 14I govern the operation of cosmetic art schools including record keeping (.0100); the reception area (.0200); classrooms (.0300); and licensure of convicted felons (.0400).

<u>Permanent Files</u>	21	NCAC 14I .0101
Amend/*		
<u>Inspection Reports and Reports of Student Hours</u>	21	NCAC 14I .0103
Amend/*		

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>Storing and Labeling of Cosmetics</u>	21	NCAC 14J .0203
Amend/*		

The rules in Subchapter 14K deal with the manicurist curriculum.

<u>Live Model Performances</u>	21	NCAC 14K .0107
Amend/*		

The rules in Subchapter 14P are civil penalty rules.

<u>Licenses Required</u>	21	NCAC 14P .0106
Amend/*		

The rules in Subchapter 14R are continuing education rules.

<u>Continuing Education Requirements</u>	21	NCAC 14R .0101
Amend/*		
<u>Application Criteria and Continuing Education Course Appr...</u>	21	NCAC 14R .0102
Amend/*		
<u>Criteria for Continuing Education Courses</u>	21	NCAC 14R .0103
Amend/*		

The rules in Subchapter 14S concern natural hair care curriculum.

<u>Uniform</u>	21	NCAC 14S .0101
Adopt/*		
<u>Time Requirements According to Hours</u>	21	NCAC 14S .0102
Adopt/*		
<u>Approved Field Trips</u>	21	NCAC 14S .0103
Adopt/*		
<u>Equipment for Beginner Department</u>	21	NCAC 14S .0104
Adopt/*		
<u>Storing and Labeling of Cosmetics</u>	21	NCAC 14S .0105
Adopt/*		
<u>Equipment</u>	21	NCAC 14S .0106
Adopt/*		
<u>Performances</u>	21	NCAC 14S .0107
Adopt/*		
<u>Students' Personal Supplies</u>	21	NCAC 14S .0108
Adopt/*		
<u>Tests</u>	21	NCAC 14S .0109
Adopt/*		
<u>Approval of Credit for Natural Hair Care Instruction/Anot...</u>	21	NCAC 14S .0110
Adopt/*		
<u>Services Performed</u>	21	NCAC 14S .0111
Adopt/*		
<u>Licensing of Natural Hair Care Specialists</u>	21	NCAC 14S .0112
Adopt/*		

DENTAL EXAMINERS, BOARD OF

The rules in Chapter 16 cover the licensing of dentists and dental hygienists. The rules in Subchapter 16C are dental hygienist licensure rules including general provisions (.0100); qualifications (.0200); application (.0300); Board conducted examinations (.0400); and licensure by credentials (.0500).

<u>Board Conducted Reexamination</u>	21	NCAC 16C .0405
Amend/*		

The rules in Chapter 16 are for the Board of Dental Examiners.

The rules in Subchapter 16Q concern general anesthesia and sedation including definitions (.0100); general anesthesia (.0200); parenteral conscious sedation (.0300); enteral conscious sedation (.0400); renewal of permits (.0500); reporting and penalties (.0600); and penalty for non-compliance (.0700).

<u>Credentials and Permits for Moderate Conscious Sedation, ...</u>	21	NCAC 16Q .0301
Amend/*		

Clinical Requirements and Equipment 21 NCAC 16Q .0302
Amend/*

NURSING, BOARD OF

The rules in Chapter 36 are from the Board of Nursing and include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

Listing and Renewal 21 NCAC 36 .0404
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).

Expirations and Renewals of Certificates 21 NCAC 56 .0505
Amend/*

Expirations and Renewals of Certificates 21 NCAC 56 .0606
Amend/*

Annual Renewal 21 NCAC 56 .0804
Amend/*

ENVIRONMENTAL HEALTH SPECIALIST EXAMINERS, BOARD OF

The rules in Chapter 62 are from the board of environmental health specialist examiners including organization (.0100); rulemaking procedures (.0200); contested cases (.0300); rules of operation (.0400).

Meetings 21 NCAC 62 .0102
Repeal/*

Secretary-Treasurer 21 NCAC 62 .0104
Repeal/*

Petition for Rulemaking 21 NCAC 62 .0201
Amend/*

Notice 21 NCAC 62 .0202
Repeal/*

Hearings 21 NCAC 62 .0203
Repeal/*

Justification of Rulemaking Decision 21 NCAC 62 .0204
Repeal/*

Record of Rulemaking Proceedings 21 NCAC 62 .0205
Repeal/*

Fees 21 NCAC 62 .0206
Repeal/*

Declaratory Rulings 21 NCAC 62 .0208
Repeal/*

Opportunity for an Administrative Hearing 21 NCAC 62 .0301
Repeal/*

Request for a Hearing 21 NCAC 62 .0302
Repeal/*

RULES REVIEW COMMISSION

<u>Notice</u>	21	NCAC 62	.0305
Repeal/*			
<u>Intervention</u>	21	NCAC 62	.0306
Repeal/*			
<u>Change of Venue</u>	21	NCAC 62	.0307
Repeal/*			
<u>Disqualification of Board Members</u>	21	NCAC 62	.0308
Repeal/*			
<u>Failure to Appear</u>	21	NCAC 62	.0309
Repeal/*			
<u>Continuances</u>	21	NCAC 62	.0310
Repeal/*			
<u>Pre-Hearing Conference</u>	21	NCAC 62	.0314
Repeal/*			
<u>Simplification of Issues</u>	21	NCAC 62	.0315
Repeal/*			
<u>Subpoenas</u>	21	NCAC 62	.0316
Repeal/*			
<u>Transcripts</u>	21	NCAC 62	.0317
Repeal/*			
<u>Record of Contested Cases</u>	21	NCAC 62	.0319
Repeal/*			
<u>Statutory Authority and Definitions</u>	21	NCAC 62	.0401
Amend/*			
<u>Applications</u>	21	NCAC 62	.0402
Amend/*			
<u>Examination</u>	21	NCAC 62	.0403
Amend/*			
<u>Disciplinary Action</u>	21	NCAC 62	.0404
Amend/*			
<u>Authorized Expenditures and Fees</u>	21	NCAC 62	.0405
Amend/*			
<u>Renewal</u>	21	NCAC 62	.0407
Amend/*			
<u>Public Inspection</u>	21	NCAC 62	.0408
Repeal/*			
<u>Specialized Training</u>	21	NCAC 62	.0411
Amend/*			
<u>Environmental Health Specialist Intern Experience</u>	21	NCAC 62	.0414
Amend/*			
<u>Code of Ethics</u>	21	NCAC 62	.0415
Adopt/*			

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 431-3000. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
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NC Alcoholic Beverage Control Commission v. Ciro Maya Maya, T/A Carolina Sports Arena	08 ABC 2411	Overby	06/29/09	
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NC Alcoholic Beverage Control Commission v. Danny Wilson Hayes, Debra Ann Hayes, T/A Double D Sports Bar and Grill	09 ABC 0006	Gray	01/28/10	
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N.C. Alcoholic Beverage Control Commission v. Partnership T/A El Paraiso II	09 ABC 4171	May	02/16/10	
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NC Alcoholic Beverage Control Commission v. La Tienda Mexicana Corp. T/A Tienda La Unica	09 ABC 4379	Brooks	09/17/09	
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NC Alcoholic Beverage Control Commission v. KAM Properties Inc. T/A Grays Creek Superette	09 ABC 4686	Gray	10/19/09	
N.C. Alcoholic Beverage Control Commission v. Bee Nui Carson, T/A Big Boys Market	09 ABC 5209	Brooks	12/11/09	
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NC Alcoholic Beverage Control Commission v. Alhobishi Convenience Stores & Rentals, Inc T/A Happy Mart 4	09 ABC 5293	Lassiter	01/19/10	
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NC Alcoholic Beverage Control Commission v. Xuan Huong Thi Le T/A Billiards and Grill	09 ABC 5424	Brooks	12/10/09	
NC Alcoholic Beverage Control Commission v. Rumba D Cache Inc, T/A Rumba D Cache	09 ABC 6277	Brooks	03/25/10	
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NC Alcoholic Beverage Control Commission v. Alive Noda, Inc, T/A Alive Noda	10 ABC 0028	Brooks	04/15/10	
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Douglas Van Essen v. NC State Board of Cosmetic Arts Examiners	09 BCA 2773	Webster	01/20/10	24:18 NCR 1638
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Tony Ray Ross v. North Carolina State Highway Patrol	08 CPS 2546	Overby	10/06/09	
Ricky F. Smith v. Crime Control and Public Safety	08 CPS 2582	May	08/06/09	
Robert Melvin v. Janice Carmichael, NC Crime Victim Compensation	08 CPS 2634	Elkins	06/01/09	
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Peter Thomas, Southeast Forest Works, LLC v. NC State Highway Patrol	09 CPS 1257	Gray	05/19/09
Allen Bender, AB's Gravel Driveways, LLC v. North Carolina State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 1259	Gray	06/29/09
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Ramdog Enterprises, LLC v. NC Highway Patrol, Troop G, District V and Captain F.T. Stout	09 CPS 1531	Brooks	01/13/10
Cape Romain Contractors, Inc., Andrew Dupre v. North Carolina Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 1599	Gray	07/02/09
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Robert C. Bacon v. NC State Highway Patrol	09 CPS 2426	Gray	12/18/09
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George M. Gause v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 2551	Webster	09/30/09
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Lowell Thomas Blue v. NC State Highway Patrol	09 CPS 4509	Gray	10/07/09
Lindsey Carol Bollinger v. NC Dept. of Crime Control & Public Safety, Division of Victims Compensation Services	09 CPS 4514	May	09/27/09
Larry George Willoughby v. NC Department of Crime Control and Public Safety	09 CPS 4569	Gray	12/16/09
Michelle Kyong Woods v. Victim Compensation	09 CPS 4622	Overby	01/27/10
Palmetto Sealing Co., Inc. v. NC Secretary of Crime Control and Public Safety	09 CPS 4632	Gray	11/30/09
Eddy L. Cheek v. NC Dept. of Crime Control & Public Safety, State Highway Patrol	09 CPS 4633	May	10/09/09
NOLA Bus Tours Inc, NC State Highway Patrol	09 CPS 4739	Elkins	03/01/10
Crst Malone v. NC State Highway Patrol	09 CPS 4741	Overby	01/27/10
Gary Martin Greens v. Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 4798	Gray	04/15/10
Yurry Demyanchuk v. RR Sheets, NC State Highway Patrol	09 CPS 4799	Lassiter	09/29/09
Piedmont Cheerwine Bottling Co. v. NC Dept. of Crime Control and Public Safety	09 CPS 4852	Brooks	11/09/09
Phillip J. Evans v. Highway Motor Carrier	09 CPS 4953	Overby	10/28/09

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Jesse M Staton v. NC State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 4997	Overby	01/21/10
Poplar Ridge Lumber Company, Blaine J. Snyder, II v. NC State Highway Patrol	09 CPS 5089	Gray	02/16/10
Atlantic Construction Services, Inc., Frederick George Lempe II v. NC Dept. of Crime Control and Public Safety	09 CPS 5161	Lassiter	12/01/09
Juan Pablo Rivera Salinas Sealy Agents Waterproofing v. NC State Highway Patrol	09 CPS 5385	Brooks	02/03/10
Boxley Block, LLC v. NC State Highway Patrol Motor Carrier Enforcement Administration	09 CPS 5445	May	02/04/10
CMT Trucking Inc. Charles M. Tyson v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 5446	Gray	12/16/09
Da Qiang Yang Hi-Tech Trucking Inc v. Crime Control and Public Safety	09 CPS 5999	Lassiter	03/29/10
Palmetto Sealing Inc v. NC Secretary Crime Control and Public Safety	09 CPS 6169	Overby	01/27/10
Michael Davis v. NC Department of Crime Control and Public Safety, State Highway Patrol	09 CPS 6190	Gray	01/27/10
Gilberto Santiago v. NC Department of Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	09 CPS 6191	Gray	01/27/10
William Terry Ivey v. NC Hwy Patrol, Division of Motor Vehicles	09 CPS 6250	Elkins	02/26/10
Premier Transportation & Warehouse, Inc., Kevin Beck	09 CPS 6586	Brooks	05/10/10
Curtis Junior Miles v. NC State Highway Patrol	09 CPS 6854	Gray	03/10/10
Mack Padgett v. Crime Control and Public Safety	10 CPS 0107	Brooks	03/01/10
Stephen McNeil DBA S&L Transport Co v. Crime Control and Public Safety, Division of State Highway Patrol, Motor Carrier Enforcement Section	10 CPS 0295	Lassiter	04/06/10
KLS Trucking Inc, v. State Highway Patrol	10 CPS 0448	Overby	04/15/10
Christopher D. Beam v. Crime Victims Compensation	10 CPS 0588	May	04/19/10

A list of Child Support Decisions may be obtained by accessing the OAH Website: <http://www.ncoah.com/hearings/decisions/>

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Henry Neese and Patricia Neese v. NC Department of Agriculture and Consumer Services	09 DAG 2899	Mann	11/25/09	24:18 NCR 1662
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Patricia L. Tiller v. NC Dept. of Health & Human Ser., Health Care Personnel Registry Sec	07 DHR 0302	Lassiter	07/14/09	
Martha's Group Home, Inc. v. NCDHHS, Ms. Emery Milliken, General Counsel	07 DHR 1714	Gray	02/24/10	
Teresa S. Reid, Reid's Health Care v. DHHS, Division of Medical Assistance	08 DHR 0596	Elkins	01/21/10	
Ely Enterprises, Inc., D/B/A A Home Away from Home v. DHHS	08 DHR 0906	Gray	02/22/10	
Envisions of Life LLC v. Hearing Office – 05 Division of Medical Assistance	08 DHR 0967	Lassiter	07/01/09	
Cynthia Curtis v. Department of Health and Human Services, Division of Health Service Regulation	08 DHR 1485	Brooks	05/07/09	24:07 NCR 408
MedExpress Pharmacy LTD. V. NC Dept. of Health and Human Services and NC Dept. of Administration	08 DHR 1566	Elkins	11/30/09	
Lilieth P. Brown v. Office of Administrative Hearings	08 DHR 1807	Morrison	08/13/09	
Blue Ridge Healthcare Surgery Center-Morganton, LLC & Grace Hospital, Inc. v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Certificate of Need Section & Carolina Digestive Care, PLLC and HMB Properties, LLC	08 DHR 2216	Brooks	06/19/09	24:11 NCR 913
Bethlehem Center of Charlotte v. Child and Adult Care Food Program, Division of Public Health, NC Dept. of Health and Human Services	08 DHR 2284	Brooks	05/26/09	
Edward A. Patterson v. Division of Child Development	08 DHR 2364	Webster	06/02/09	
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MJKM, LLC d/b/a Pueblo Supermarket v. NC Dept. of Health and Human Services, Division of Public Health, Women and Children's Health Section	08 DHR 2443	Gray	09/03/09	
Jasper Tyson v. Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	08 DHR 2444	May	05/21/09	
Choices Group Home Inc, Victor Vega v. Office of Administrative Hearings, Department of Health and Human Services	08 DHR 2512	Gray	07/16/09	
Tabitha Raeford v. DHHS, Division of Health Service Regulation	08 DHR 2566	Gray	03/26/10	
Pepper Dawn Kirk-McLendon Peppermint Daycare v. N.C Department of Health and Human Services, Division of Child Development	08 DHR 2571	Mann	07/07/09	24:07 NCR 416
Edward Royal, Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	08 DHR 2698	Overby	05/27/09	
C. Vann Pierce, Executive Officer, Heritage Care of Rocky Mount, Licensee, License No. Hal-033-005 v. N.C DHHS, Division of Health Service Regulation, Adult Care Licensure Section	08 DHR 2732	Lassiter	11/03/09	24:16 NCR 1435
Josephine Keke v DHHS, Division of Health Service Regulation, Health Care Personnel Registry	08 DHR 2739	Gray	02/08/10	
Abundant Life Child Care Center, Tiffany D. Monroe v. Division of Child Development, June Locklear, Brenda Faircloth	08 DHR 2954	Elkins	06/03/09	
Outreach Home v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	08 DHR 2981	Gray	09/17/09	
L&J Group Homes, Inc. v. NC DHHS/Div. of Health Service Regulation, Mental Health	08 DHR 3108	Lassiter	10/06/09	
Amy G. Poteat v. Health Care Personnel Registry	08 DHR 3489	May	06/03/09	
Freedom House Recovery Center, Inc. v. NC Division of Health Service Regulation	08 DHR 3674	Gray	10/13/09	
Kathy Dunning Bright v. Health Care Personnel Registry	09 DHR 0057	Overby	08/04/09	
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Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning	09 DHR 1261	Gray	06/08/09	

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Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning	09 DHR 1263	Gray	06/08/09	
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Sonya C. Ragland, Joseph K. Ragland, Barbara Washington, and The Seed of Abraham Learning	09 DHR 1264	Gray	06/08/09	
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Genesis Family Health Care Inc. c/o James Collins v. NC Dept. of Health and Human Services, Division of Medical Assistance	09 DHR 1413	Gray	08/18/09	
Michael Parks Fresh Start Residential Services Inc. v. NC DHHS Division of Health Service Regulation Mental Health Licensure Certification	09 DHR 1474	Overby	06/17/09	
Spring House Residential Facility v. N.C. Dept. of Health and Human Services DHSR MHLIC	09 DHR 1482	May	06/19/09	
Victoria Martin v. Surry County Dept of Health and Human Services AFDC/Work First	09 DHR 1533	May	06/04/09	
Yolanda Portillo v. N.C. Department of Health and Human Services	09 DHR 1558	Webster	07/17/09	
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Glorious Child Care, Linda T. James v. Department of Health and Human Services, Division of Child Development	09 DHR 1951	Elkins	03/05/10	
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Jason M. Paris (petitioner, Christine O. Jacobs (representing petitioner) v. N.C. Department of Health and Human Services (DHHS)	09 DHR 2296	May	07/10/09	
Bernice Taylor v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 2297	May	08/07/09	
Gerald A .Harper v. NC Dept. of Health and Human Services	09 DHR 2349	Gray	10/07/09	
Contour Service, Inc., (MHL #090-101) v. Department of Health Services, Division of Health Service Regulation	09 DHR 2350	May	07/21/09	
Community Alternative Resources, Inc. Wayne L. Burch and Michelle M. Dolphus v. Dept. of Health and Human Services	09 DHR 2456	May	08/28/09	
Charlene M. Hatfield v. NC Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 2503	Gray	08/31/09	
Helen Webb v. Department of Health and Human Dept. of Child Dept	09 DHR 2589	Webster	07/17/09	
Lanika Ortega v. North Carolina Department of Health and Human Services	09 DHR 2637	Lassiter	07/27/09	
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Brenda V. Patterson v. State Department of Social Services	09 DHR 2655	Webster	07/17/09	
Rose Boyd v. NC Dept. of Health and Human Services	09 DHR 2706	Brooks	08/17/09	
John Okoroma v. Mecklenburg County Dept. of Social Services	09 DHR 2710	May	07/24/09	
Angela Conner Tawes, Conner's Cape Hatteras Supermarket, Inc v. North Carolina Department of Health and Human Services	09 DHR 2717	Gray	06/15/09	
Melonie L. Keith, John David Keith v. Central Billing DHHS Controllors Office	09 DHR 2779	Webster	10/22/09	
Sharon M. Hill v. NC Department of Health and Human Services	09 DHR 2809	Lassiter	07/27/09	
Cipriano Mendez Chiquito v. NC Dept. of Health and Human Services, Division of Public Health	09 DHR 2824	May	08/12/09	
Trinia E. McCorkle v. North Carolina Department of Health and Human Services	09 DHR 2829	Brooks	07/10/09	
Kashina L. Davis v. North Carolina Department of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 2832	Gray	07/01/09	
Brenda V. Patterson v. N.C. State Department of Social Services	09 DHR 2836	Webster	07/17/09	
Brenda Patterson v. Division of Child Development	09 DHR 2837	Webster	07/17/09	
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John and Candice Danner v. NC Dept. of Health and Human Services	09 DHR 2936	Brooks	08/28/09	
Wake Radiology Services, LLC v. d/b/a Wake Radiology Northwest Raleigh Office v. DHHS Division of Health Service Regulation, CON Section and Pinnacle Health Services of North Carolina, LLC, d/b/a Raleigh Radiology at Cedarhurst	09 DHR 2976	Cella	01/29/10	24:20 NCR 1773
Rickie Annas v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 2962	Brooks	08/10/09	
Berta Spencer v. NC Dept. of Health and Human Services	09 DHR 3000	Cella	10/07/09	
Brenda V. Patterson v. State Department of Social Services	09 DHR 3002	Webster	07/17/09	
Brenda V. Patterson v. State Department of Social Services	09 DHR 3003	Webster	07/17/09	
Brenda V. Patterson v. State Department of Social Services	09 DHR 3004	Webster	07/17/09	
Mary's House, Inc., MHL #041-288, Craig Thomas, Executive Director v. Ms. Emery Milliken, General Counsel, Department of Health and Human Services, Office of Legal Affairs	09 DHR 3008	Mann	07/22/09	
Keshea Montgomery v. Randolph County Dept. of Health and Human Services	09 DHR 3012	Mann	08/27/09	
Shawanda Ann Barnes V. Cherry Hospital	09 DHR 3076	Lassiter	09/28/09	
St. Francis of Charlotte, Inc. Francis Ford Provider #83022329B and 83022329H v. NC Dept. of Health and Human Services, Div. of Medical Assistance	09 DHR 3101	Brooks	09/23/09	
Edward A. Patterson v. Division of Child Development	09 DHR 3113	Webster	07/17/09	
Brenda V. Patterson v. Division of Child Development	09 DHR 3114	Webster	07/17/09	
Matta Inc. Peaceful Dominion, Issac Matta, v. Div of Health Service Regulation, MH Licensure & Certification	09 DHR 3761	Brooks	02/26/10	

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Ernest Hines v. Cherry Hospital	09 DHR 3266	Gray	09/17/09	
Sandra Wright v. Division of Child Development	09 DHR 3434	Elkins	08/24/09	
Wake Radiology Services LLC, Wake Radiology Diagnostic Imaging Inc., Wake Radiology Consultants PA, Smithfield Radiology Inc., and Raleigh MR Imaging LP v. DHHS, Division of Health Service Regulation, Certificate of Need Section and Pinnacle Health Services of North Carolina, LLC, d/b/a Raleigh Radiology at Cedarhurst	09 DHR 3473	Gray	02/22/10	24:21 NCR 1922
Carolyn Diane Ragin v. Health Care Personnel Registry	09 DHR 3502	Gray	08/31/09	
Edward A. Patterson v. Division of Child Development	09 DHR 3503	Webster	07/17/09	
Tamekia Cain v. Athena Foreman, HCPR Investigator, NC Dept. of Health and Human Services	09 DHR 3536	Elkins	10/01/09	
Amanda L. Brewer v. DHHS	09 DHR 3541	Elkins	08/21/09	
Kenneth and Kimberly Thomason v. NC Dept. of Health and Human Services	09 DHR 3592	Gray	10/08/09	
Tommy G. Davis v. NC Dept. of Revenue	09 DHR 3647	Gray	09/02/09	
Heather C. Briggs v. NC Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 3651	May	07/29/09	
Dr. Ann Markiewioz, Gaston Memorial Hospital v. The Carolinas Center for Medical Excellence	09 DHR 3660	Webster	09/28/09	
Julian E. Cameron, Jr. DDS v. NC Dept. of Health and Human Services, Division of Medical Assistance	09 DHR 3663	Gray	08/12/09	
Katonia L. Davis v. Office of Administrative Hearings, Ms. Emery Edwards Milliken	09 DHR 3683	Elkins	10/08/09	
Angel's Childcare, Treva Richardson v. Division of Child Development, Dept. of Health and Human Services	09 DHR 3688	Elkins	10/08/09	
Brenda Fay Simmons v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 3752	Brooks	08/12/09	
Lloyd K. Howell v. NC Dept. of Health and Human Services	09 DHR 3756	Lassiter	09/14/09	
Pamela Ann Hedgecock v. NC Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 3763	Brooks	10/30/09	
TLC Adult Home, Sonja Hazelwood v. NC Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 3776	Gray	09/16/09	
Lesia Hammonds DBA Sampsons Family Care Home v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section	09 DHR 3872	Gray	11/13/09	
Alvester Miller, III v. NC Dept. of Health and Human Services	09 DHR 4003	Overby	10/26/09	
Omnicare of Hickory, Jackie Knight	09 DHR 4069	Brooks	10/07/09	
Charles D. Harris v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 4107	Brooks	10/29/09	
Robbie Wilson Community Service Eyvette L. Abbott v. Center Pointe Human Services	09 DHR 4169	Brooks	01/22/10	
St. Mary's Home Care Agency v. NC Dept. of Health and Human Services	09 DHR 4170	Gray	10/23/09	
Higher Development, LLC Robert Waters v. Division of Medical Assistance	09 DHR 4235	Overby	10/15/09	
Vickie Blair v. Office of Administrative Hearings	09 DHR 4236	May	09/27/09	
Leilani Michelle Adames v. Linda Waugh, RN, BSN HCPR Investigator Health Care Personnel Registry Investigations	09 DHR 4275	May	09/22/09	
Erica M. Small v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry Section	09 DHR 4299	Brooks	09/11/09	
Elite Care Service, Inc. Barsheem Chapman Executive Director v. NCDHHS Division of Health Service Regulation	09 DHR 4331	Gray	10/19/09	
Labrisha Keller v. Health Care Personnel Registry	09 DHR 4336	Lassiter	02/04/10	
Rebecca Leigh Sadowski v. Dept. of Health and Human Services, Division of Health Service Registry	09 DHR 4362	May	08/26/09	
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Anthony Hosea Wiseman v. Dept. of Health and Human Services	09 DHR 4567	May	09/02/09	
Roberta Latasha Wilson v. DHHS	09 DHR 4687	Overby	12/02/09	
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Ashley D. Bass v. Division of Health Service Regulation, DHHS, Health Care Personnel Investigations Program	09 DHR 4710	Webster	02/22/10	
Ward Life Outreach of Cape Fear v. Division of Health Service Regulation Health Care Personnel Registry	09 DHR 4711	Gray	11/18/09	
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A Positive Life, Inc. v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification Section	09 DHR 4956	Lassiter	10/22/09	
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Sushila Shrestha v. Dept. of Health and Human Services, Division of Health Service Regulation	09 DHR 5087	Elkins	12/14/09	
Charlene Gray v. Dept. of Health and Human Services	09 DHR 5154	Overby	11/04/09	
Healthquest Pharmacy, Darin Cunningham v. DHHS	09 DHR 5226	Elkins	02/26/10	
Tiffany Marie Campbell v. Health Care Personnel Registry	09 DHR 5361	Gray	02/02/10	
Brenda Faye Simmons v. NC Dept. of Health and Human Services, Division of Health Service Regulation, Health Care Personnel Registry	09 DHR 5364	May	11/23/09	
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Devon J. Artis v. NC Dept. of Health and Human Services, Health Care Personnel Registry Section	09 DHR 5667	May	11/16/09
KT Williams Group II, Sabrina Williams v. DHHS Hearings Office	09 DHR 5700	Brooks	04/19/10
Steven N. Leviner v. Health Care Personnel Register	09 DHR 5864	May	02/22/10
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AbleCare Corporation MHL#041-8855 v. Division of Health Service Regulation	09 DHR 6349	Brooks	02/16/10
Lynne Furlough Owner Kingdom Kids Christian Childcare Center, Inc	09 DHR 6602	Overby	03/12/10
Gemika Steele, First Steps Child Dev Center, DHHS, Division of Public Health Child and Adult Care Food Program	09 DHR 6694	Brooks	01/28/10
Jarvis Monte Gordon v. DHHS, Division of Health Service Regulation	09 DHR 6743	Webster	03/19/10
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William P. Miller, Chapter 11 Trustee, For Debtor, Faiger M. Blackwell, HAL-0001-005 v. DHHS, Adult Care Licensure Section	10 DHR 0699	Brooks	04/12/10
William P. Miller, Chapter 11 Trustee, For Debtor, Faiger M. Blackwell, HAL-0170002 v. DHHS, Adult Care Licensure Section	10 DHR 0700	Brooks	04/12/10
Community's Child Enrichment Center, Ageline Sumter v. Div. of Child Development, DHHS	10 DHR 0827	Brooks	04/20/10

DEPARTMENT OF ADMINISTRATION

Meherrin Indian Tribe, a/k/a Meherrin Tribe of North Carolina and Meherrin Tribe of North Carolina, a/k/a Meherrin Indian Tribe v. NC State Commission of Indian Affairs	08 DOA 2068	Morrison	06/15/09
Meherrin Tribe of North Carolina by and through Douglas Patterson v. North Carolina Commission of Indian Affairs	09 DOA 2367	Morrison	06/15/09
Myers' Investigative and Security Services, Inc v. DOA	09 DOA 3931	Webster	01/28/10
Battlecat Productions, Inc., D/B/A Battlecat Marine v. East Carolina University and State of NC Dept. of Purchase and Contract	09 DOA 4788	Gray	10/08/09
NC Indian Cultural Center, Inc. v. NC State Commission of Indian Affairs	09 DOA 4809	Overby	11/19/09

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Robert Allen Sartori v. K Dufault, C. Bray WCI Mail Staff, Department of Correction	09 DOC 3121	Gray	07/01/09
Sebastian X. Moore v. Theodis Beck (NC Dept. of Correction) et al	09 DOC 4749	Webster	11/03/09
Charles W. Johnson v. Supt. David Mitchell and Mt. View Administrative Authority	09 DOC 4883	May	11/03/09
Gary L. Johnson v. DH Officer Alston, BOB Lewis, Division of Prisons	09 DOC 5624	Elkins	02/26/10

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Darryl Gerald v. NC Criminal Justice Education and Training Standards Commission	08 DOJ 1872	May	01/2/10
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Weston Samuels v. NC Dept. of Justice, Campus Police Program	08 DOJ 3312	Elkins	08/24/09
Jackie Marie Daniels v. N.C. Criminal Justice Education and Training Standards Commission	09 DOJ 0218	Elkins	07/24/09
Andrew Quincy Brown v. Sheriffs' Education and Training Standards Commission	09 DOJ 0463	Gray	12/21/09
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Ronald Wynn v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 0949	Overby	07/15/09
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William Marquis Davis v. North Carolina Private Protective Services Board	09 DOJ 2506	Morrison	06/04/09
Ross Patton Gilmore v. North Carolina Alarm Licensing Board	09 DOJ 2452	Morrison	06/04/09
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John D. Dykes v. NC Dept. of Justice Company Police Program	09 DOJ 2639	May	06/18/09
Jimmie Ray Edmondson, Jr. v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 2823	Lassiter	08/04/09
Edward A. Patterson v. Attorney General Office	09 DOJ 2840	Webster	07/17/09
Shonda Lavette Higgins v. NC Private Protective Services Board	09 DOJ 3009	Overby	08/13/09
Bobby Brown v. NC Private Protective Services Board	09 DOJ 3028	Webster	11/19/09
Michelle Yvette Pollard v. Sheriffs' Education and Training Standards Commission	09 DOJ 3031	Lassiter	03/10/10
Timothy Mark Masters v. NC Alarm Systems Licensing Board	09 DOJ 3037	Morrison	09/14/09
George Lee Shaver, III v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 3072	Gray	03/15/10
Nighee Von Superville v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 3073	Gray	08/10/09
Elizabeth Marie Lancaster v. NC Private Protective Services Board	09 DOJ 3189	Webster	11/13/09
Kenneth Gray Forcum v. NC Alarm Systems Licensing Board	09 DOJ 3300	Webster	11/12/09
Heath Dwayne Kinney v. NC Alarm Systems Licensing Board	09 DOJ 3301	Webster	11/12/09
Richard Lee Powers, Sr. and Richard Lee Powers, Jr. v. Private Protective Services Board	09 DOJ 3488	Morrison	12/15/09

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Cindy Smith Ojeda v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 3643	Brooks	12/07/09	
Anthony Lyle Gentry v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 3865	Gray	08/05/09	
Edward A. Patterson v. Attorney General Office	09 DOJ 4025	Webster	08/28/09	
Edward A. Patterson v. Attorney General Office	09 DOJ 4108	Webster	08/28/09	
Jeffrey David Elkie v. Sheriffs' Education and Training Standards Commission	09 DOJ 4125	Elkins	01/14/10	
Amanda Watson Whitaker v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 4126	Overby	10/02/09	
Walter Armand Bedard v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 4127	Lassiter	11/05/09	
Cynthia Denise Walker v. Sheriffs' Education and Training Standards Commission	09 DOJ 4131	Webster	02/02/10	
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Luther Daniel Stidham v. NC Criminal Justice Education and Training Standards Commission	09 DOJ 4219	May	10/01/09	
Antonio Garcia v. NC Sheriffs' Education and Training Standards Commission	09 DOJ 4365	Gray	10/07/09	
Charles Eugene Parker v. Criminal Justice Education and Training Standards Commission	09 DOJ 4629	May	02/03/10	
Richard Cale Manning v. Criminal Justice Education and Training Standards Commission	09 DOJ 4630	Gray	01/04/10	
Clyde Devon Boger v. NC Sheriffs' Education and Training Standards Commission Re: Richard Squires	09 DOJ 4853	Lassiter	09/29/09	
Frank Burton Scofield v. Private Protective Service Board	09 DOJ 5064	Lassiter	03/12/10	
Melvin Downing, Triton Special Police Dept. v. Company Police Program	09 DOJ 5316	May	11/10/09	
Angelo Anthony Rinaldi v. Criminal Justice Education and Training Standards Commission	09 DOJ 5353	Gray	02/10/10	
Demarquis A. Redfern v. Private Protective Services Board	09 DOJ 5465	Morrison	05/03/10	
Dustin Matthew James v. Sheriffs' Education and Training Standards Commission	09 DOJ 6254	Gray	05/07/10	
Annette Leigh Rhem v. Private Protective Services Board	10 DOJ 0388	Webster	03/23/10	
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<u>DEPARTMENT OF LABOR</u>				
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<u>DEPARTMENT OF TRANSPORTATION</u>				
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<u>DEPARTMENT OF STATE TREASURER</u>				
Queen N. Thompson v. NC Office of State Treasurer	05 DST 0037	Brooks	12/01/09	
Donna F. Levi v. Department of State Treasurer	09 DST 0161	Gray	07/17/09	
Hilda Harris Member ID: 1725605 v. Department of State Treasurer Retirement Systems Division	09 DST 1290	Overby	05/27/09	
Queen N. Thompson v. NC Office of State Treasurer	09 DST 3682	Brooks	12/01/09	
Linda Duane Stalvey v. NC Dept. of Treasury	09 DST 4073	May	11/09/09	
Bonnie S. Tyndall v. State Treasurer Retirement Services Division	10 DST 0208	Lassiter	03/22/10	
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John David Erwin v. NC Dept. of Public Instruction	08 EDC 1827	Brooks	05/27/09	
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Michelle Sara Rodriguez v. National Board Certification Appeals Panel/Division of Talent Management and Development	08 EDC 3219	Brooks	08/21/09	
Courtney M. Sears, Petitioner v. Department of Public Instruction Licensure Section	08 EDC 3644	Morrison	06/08/09	
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Sandra Chesser v. State Board of Education	09 EDC 4435	May	10/01/09	
Ashley Chrisp v. NC Dept. of Public Instruction	09 EDC 5160	Brooks	10/23/09	
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The Town of Franklin Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC	07 EHR 2201	Brooks	09/24/09	
The Jackson County Government of NC v. NC Dept. of Environment and Natural Resources, Division of Water Quality and Duke Energy Carolinas, LLC	08 EHR 0019	Brooks	09/24/09	
Old Mill Forestry, LLC v. N.C. Department of Environment and Natural Resources, Division of Water Quality	08 EHR 1806	Lassiter	05/08/09	
Friends of the RockyRiver, Inc v. N.C. DENR, Div. of Water Quality and Town of Siler City	08 EHR 2474	Gray	09/28/09	24:16 NCR 1453
Cherokee County Health Department James Pann(managing member, Creek Ridge Holdings, LLC) v. N.C. Department of Environment and Natural Resources	08 EHR 2986	Gray	05/27/09	
Olde Beau General Partnership v. NC Dept. of Environment and Natural Resources, Division of Land Resources	09 EHR 0122	Gray	08/18/09	24:11 NCR 983
Saint Gobain Containers, Inc. v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 1616	Overby	10/23/09	
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John C Campbell Folk School, John M Clarke, Bldgs & Ground Mgr v. NCDENR Public Water Supply Section	09 EHR 1852	Overby	06/03/09
Doug Jernigan v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 3118	Elkins	10/16/09
Amy Jamison v. State Board of Education, Dept. of Public Instruction	09 EDC 3265	Brooks	04/27/10
Appalachian Stove Fab, Inc., James Rice v. Western North Carolina Regional Air Quality Agency	09 EHR 3785	Gray	08/06/09
Jonathan McDaniel and Cheryl Kirchner v. DENR, Division of Coastal Management	09 EHR 4153	Gray	03/15/10
Woodfield Gardens Apartments, Loretta Sims, v. NC Dept. of Environment and Natural Resources, Division of Envir Health	09 EHR 4330	May	10/09/09
Neal F. Hoffman v. DENR, Division of Environmental Health	09 EHR 4555	Overby	03/15/10
Kyle D. Page v. NC Dept. of Environment and Natural Resources	09 EHR 4623	Gray	10/07/09
Hilda Satterwhite v. Pitt County Environmental Health	09 EHR 4882	Webster	03/05/10
Town of Lilesville v. NCDENR/Public Water Supply Section	09 EHR 5286	May	12/05/09
Sidney Bruton, III v. NC Dept. of Environment and Natural Resources, Division of Air Quality	09 EHR 5351	Gray	11/05/09
Kenneth Chambers v. DENR, Division of Land Resources	09 EHR 6595	May	04/19/10

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NC Board of Examiners for Engineers and Surveyors v. Mr. Michael J. Dykes, PE	08 ELS 2275	Webster	06/10/09
Linda R. Sharp v. NC Board of Examiners for Engineers and Surveyors	09 ELS 3268	Lassiter	09/01/09

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John Randolph Ingram v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	08 INS 2952	Gray	09/08/09
Elizabeth M. Bailey v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	09 INS 0661	Lassiter	08/03/09
Erin Tapley v. Blue Cross Blue Shield	09 INS 2393	Gray	10/07/09
Lucy J. Lagnese v. NC State Health Plan	09 INS 2812	Brooks	08/14/09
David M. Jordan v. NC Teachers' and State Employees' Comprehensive Major Medical Plan	09 INS 3005	Cella	09/14/09
Barbara A Evans v. State Health Plan	09 INS 3067	Lassiter	07/27/09
Sandra Hunter v. BCBS of North Carolina	09 INS 3183	Lassiter	09/14/09
Patricia Sharp v. NC State Health Plan Blue Cross/Blue Shield	09 INS 3192	Gray	08/31/09
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Benjamin Pace v. Wake County Superior-District Court and Information Center	09 MIS 5188	Elkins	11/13/09

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C.W. McAdams v. NC Dept. of Transportation	05 OSP 0626	Morrison	08/14/09	
Wade Bryan Bulloch v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	05 OSP 1178	Gray	01/15/10	24:16 NCR 1394
Alvita C. Byers v. Elizabeth Cox, The office of Human Resources and The North Carolina School of the Arts	07 OSP 1514	Brooks	05/20/09	24:07 NCR 396
Edward Alan Roper v. Broughton Hospital, Dept. of Health and Human Services	07 OSP 2186	Brooks	05/18/09	
Lorraine Smith v. DENR, Zoological Park	07 OSP 2279	May	02/08/10	
Fatima Akhtar v. NC Dept of Commerce	08 OSP 0171	Gray	08/05/09	
Julie Norris Watson v. NC DPI	08 OSP 0541	Brooks	05/22/09	
Kathleen Hardiman v. NC Aquarium at Pine Knoll Shores, Jay Barnes, Director, James Lewis and Lonnie Burke	08 OSP 0868	Gray	11/10/09	
Simon Camara v. NC Central University	08 OSP 1345	Lassiter	10/07/09	
Danny Ellis v. DHHS, Health Service Regulation	08 OSP 1362	Lassiter	02/22/10	
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Sharon Annette Mercer v. N.C. Division of Motor Vehicles	08 OSP 2293	Webster	08/14/09	24:07 NCR 447
Jacqueline H. Davis v. NC Dept. of Correction	08 OSP 2342	Overby	08/19/09	
Jody Lynn Hinson v. N.C. Department of Crime Control and Public Safety, N.C. Highway Patrol	08 OSP 2409	Overby	06/03/09	
Tonya M. Jones v. NC Dept. of Health and Human Services	08 OSP 2418	Webster	06/12/09	24:11 NCR 955
Richard C. Foy v. NC Dept. of Insurance	08 OSP 2581	Gray	05/21/09	
Denise Vee v. Cumberland County Department of Public Health	08 OSP 2955	Elkins	07/22/09	24:07 NCR 465
Elsie Hinton v. NC DOT	08 OSP 3111	Lassiter	04/07/10	24:22 NCR 1985
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Darryll Williams v. NC Dept. of Health and Human Services, Murdoch Developmental Center	08 OSP 3661	Cella	09/18/09	
Jerry Lewis Monroe, Sr. v. Fayetteville State University	09 OSP 0098	Gray	09/03/09	
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Bernard Westbrook v. NC A&T University, Ms. Linda McAbee, Vice Chancellor for HR	09 OSP 0461	Brooks	02/11/10	
Hareh Motiroam Advani v. ECU, Division of Finance and Administration	09 OSP 1733	Lassiter	02/11/10	
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Timothy Strong v. Central Regional Hospital, NC DHHS	09 OSP 2401	Elkins	05/27/09	
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Felicia D. McClain v. DENR/Soil & Water Conservation	09 OSP 2550	Webster	08/12/09	
Ronald Gene Ezzell, Jr. v. NC State Highway Patrol	09 OSP 2588	Morrison	08/05/09	24:11 NCR 998
Marcie A. Elder v. Lincoln County Department of Social Services	09 OSP 2781	Brooks	02/05/10	
Thomas E. Freeman, Jr. v. NC DHHS/Central Regional Hospital And Whitaker School	09 OSP 2826	Webster	07/17/09	
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Hope C. Freeman v. Bladen County Department of, Social Services	09 OSP 3504	Elkins	07/24/09	
Tiajuana Evans v. O'Berry Neuro-Medical Treatment Center	09 OSP 3530	Lassiter	08/31/09	
Francisa Okafor v. NC Dept. of Health and Human Services	09 OSP 3533	Gray	09/30/09	24:20 NCR 1827
Charles Nathan v. Robeson Co. DSS Foster Care Unit	09 OSP 3543	Elkins	10/08/09	
Wilbert Riggin v. Scotland County Public Schools	09 OSP 3653	Elkins	10/05/09	
Marcus Lamont Hill, Sr. v. Wayne Correctional Center	09 OSP 3790	Lassiter	09/18/09	
Terryl Underwood v. O'Berry Center	09 OSP 3896	Elkins	03/16/10	
Sarah M. Brake v. State Board of Elections	09 OSP 4061	Lassiter	10/06/09	
Cynthia Bizzell v. Durham Public Schools	09 OSP 4070	Lassiter	08/24/09	
Glenn Hodge v. NC Dept. of Transportation	09 OSP 4094	Lassiter	08/18/09	
Randall S. Smith v. Carolina Copy c/o UNC at Chapel Hill	09 OSP 4109	Lassiter	08/31/09	
Clifton Cox v. Caswell Center	09 OSP 4241	Overby	10/29/09	
David T. McPhun v. State Health Plan	09 OSP 4457	Lassiter	01/26/10	
Virginia (Gin) Ivey Leggett v. Pathways LME	09 OSP 4498	Lassiter	08/31/09	
Tina McMillian v. Employment Security Commission of NC	09 OSP 4568	Gray	11/20/09	
Ruby H. Cox v. Tim Davis, Employment Security Commission	09 OSP 4774	Overby	10/05/09	
Argy R. Crowe v. Charlotte Mecklenburg Schools/UI	09 OSP 4786	Lassiter	10/20/09	
Thomas E. Freeman, Jr. v. The people associated with NC Dept. of Health and Human Services and Whitaker School	09 OSP 4795	Overby	09/18/09	
James Alan McManus v. Dept. of Secretary of State	09 OSP 5044	Elkins	05/05/10	
Harriette E. Smith v. UNC General Administration	09 OSP 5189	Elkins	10/30/09	
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Pamela Lynn Jordan v. Forsyth County Department of Social Services	09 OSP 6435	Brooks	03/05/10	
Scott Minter v. Pender County Schools Board of Education	09 OSP 6449	Morrison	04/14/10	
Janet R. Reed v. Brunswick County Dept. of Social Services	09 OSP 6718	May	05/07/10	
Marie Barton Backus v. Union County Health Dept	09 OSP 6719	Brooks	03/16/10	
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Christopher D. Beam v. Dept. of Crime Victims Compensation Commission	10 CPS 0588	May	04/19/10	
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Robert Lee Evans v. NC Office of Administrative Hearings	09 SOS 2300	Lassiter	06/03/09	
Asali J. Howard v. North Carolina Department of The Secretary Of State	09 SOS 2707	May	07/16/09	
Pamela Nickles v. Dept. of Secretary of NC State	09 SOS 3120	Brooks	10/16/09	
Stanley Young v. The Notary Public Section	09 SOS 4001	Brooks	09/18/09	
Jeremy Glen Blow v. NC Office of the Secretary of State	09 SOS 4245	Overby	09/14/09	
Martha C. Graybeal v. NC Dept. of the Secretary of State Certification Filing Division	09 SOS 4273	Brooks	10/07/09	
Brandi Alexis Meeker v. Dept. of the Secretary of State	09 SOS 4580	Overby	10/29/09	
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Bobbie Perlow v. UNC Hospitals	09 UNC 1606	Brooks	07/15/09	
Nicole Bryant v. UNC Hospitals	09 UNC 2022	Lassiter	06/16/09	
Jennifer Thompson Stewart v. UNC Hospitals	09 UNC 2147	Mann	08/07/09	
Cynthia K. Yellock v. UNC Hospitals	09 UNC 2298	Mann	07/21/09	
Jennifer Jacobs v. UNC Hospitals	09 UNC 2409	Mann	07/21/09	
Ryan Rockey v. UNC Hospitals	09 UNC 2587	May	07/15/09	
Mary Ann Strickland v. UNC Hospitals	09 UNC 2712	Overby	06/04/09	
James Tyler Utt v. UNC Hospitals	09 UNC 2892	May	09/22/09	
Alan Greene v. UNC Hospitals	09 UNC 2894	Overby	08/04/09	
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Kathleen G. Finch v. UNC Hospitals	09 UNC 3418	Gray	08/31/09	
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Darice Witherspoon v. UNC Hospitals	09 UNC 3428	Gray	07/30/09	
Timothy H. Keck v. UNC Hospitals	09 UNC 3528	Gray	08/06/09	
Marion Munn v. UNC Hospitals	09 UNC 3531	Gray	08/31/09	
Cynthia D. Baker v. UNC Hospitals	09 UNC 3680	Gray	09/02/09	
Eilene Renee Alston v. UNC Hospitals	09 UNC 3926	Gray	08/31/09	
Karen E. Current v. UNC Hospitals	09 UNC 4019	Gray	09/08/09	
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Richard F. Shoe v. UNC Hospitals	09 UNC 4396	Elkins	11/24/09	
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