

NORTH CAROLINA REGISTER

VOLUME 26 • ISSUE 03 • Pages 76 - 240

August 1, 2011

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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
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Bobby Bryan, Commission Counsel bobby.bryan@oah.nc.gov (919) 431-3079

Fiscal Notes & Economic Analysis and Governor's Review

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: 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

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
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NORTH CAROLINA REGISTER
Publication Schedule for January 2011 – December 2011

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

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.



**EXECUTIVE ORDER NO. 94
PROCLAMATION OF A STATE OF EMERGENCY
BY THE GOVERNOR OF THE STATE OF NORTH CAROLINA**

Pursuant to the authority vested in me as Governor by the Constitution and the laws of the State of North Carolina:

Section 1.

I declare that a State of Emergency exists in the following North Carolina counties: Robeson, Columbus, Brunswick, Bladen, Cumberland, Harnett, Sampson, Pender, New Hanover, Johnston, Duplin, Onslow, Jones, Carteret, Pamlico, Craven, Lenoir, Wayne, Wilson, Greene, Pitt, Edgecombe, Martin, Beaufort, Washington, Tyrrell, Dare, Hyde, and Nash due to the extreme fire hazard created by dry conditions and the current wildfires/forest fires in several of these counties.

Section 2.

I order all state and local government entities and agencies to cooperate in the implementation of the provisions of this proclamation and the provisions of the North Carolina Emergency Operations Plan.

Section 3.

I delegate to Reuben F. Young, Secretary of Crime Control and Public Safety, or his designee, all power and authority granted to me and required of me by Article 1 of Chapter 166A of the General Statutes for the purpose of implementing the State's Emergency Operations Plan and to take such further action as is necessary to promote and secure the safety and protection of the populace in North Carolina.

Section 4.

Further, Secretary Young, as chief coordinating officer for the State of North Carolina, shall exercise the powers prescribed in G. S. § 143B-476.

Section 5.

I further direct Secretary Young to seek assistance from any and all agencies of the United States Government as may be needed to meet the emergency and seek reimbursement for costs incurred by the State in responding to this emergency.

Section 6.

I hereby order this proclamation: (a) to be distributed to the news media and other organizations calculated to bring its contents to the attention of the general public; (b) unless the circumstances of the state of emergency prevent or impede, to be promptly filed with the Secretary of Crime Control and Public Safety, the Secretary of State, and the clerks of superior court in the counties to which it applies; and (c) to be distributed to others as necessary to assure proper implementation of this proclamation.

Section 7.


This order is adopted pursuant to my powers under Article 1 of Chapter 166A of the General Statutes and not under my authority under Article 36A of Chapter 14 of the General Statutes. It does not trigger the limitations on weapons in G.S. § 14-288.7 or impose any limitation on the consumption, manufacture, transportation, sale or purchase of alcoholic beverages.

Section 8.

This Executive Order is effective immediately and shall remain in effect for thirty (30) days 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 twenty-fifth day of June in the year of our Lord two thousand and eleven, and of the Independence of the United States of America the two hundred and thirty-fifth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 95

ORGANIZATION OF THE EMPLOYMENT SECURITY COMMISSION WITHIN THE
DEPARTMENT OF COMMERCE

WHEREAS, in the Appropriations Act of 2011, Session Law 2011-145, section 14.5, the North Carolina General Assembly transferred the Employment Security Commission to the Department of Commerce via a Type I transfer as defined by N.C. Gen. Stat. 143A-6, effective November 1, 2011; and

WHEREAS, as part of a Type I transfer, all statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Employment Security Commission are transferred to the Department of Commerce; and

WHEREAS, the Secretary of Commerce is now authorized to oversee the responsibilities and management of the Employment Security Commission; and

WHEREAS, to protect the interests of the state's workers, I believe it is important to maintain a separation between those policymaking and adjudicative functions of the Employment Security Commission that are related to unemployment insurance; and

WHEREAS, the North Carolina Constitution gives the Governor the power to make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as deemed necessary for efficient administration.

NOW, THEREFORE, pursuant to the powers conferred on me as Governor by Article III, Section 5(10) of the Constitution and the laws of North Carolina, **IT IS ORDERED**:


1. The Secretary of Commerce shall organize the functions of the Employment Security Commission as follows:
 - a. The Employment Security Commission, as established by N.C. Gen. Stat. § 96-3, shall exercise its policymaking and adjudicative functions related to unemployment insurance independent of the Secretary of Commerce. The Office

of Chief Counsel, including all attorneys and support staff housed under that office, shall remain with and shall be considered a part of the Employment Security Commission. Provided, however, that the planning, organizing, staffing, directing, coordinating, reporting and budgeting functions of the Employment Security Commission shall be performed under the direction and supervision of the Secretary of Commerce. Additionally, the Secretary of Commerce shall incorporate into the Department of Commerce all other statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds of the Employment Security Commission that are not included in the Commission's policymaking and adjudicative functions related to unemployment insurance.

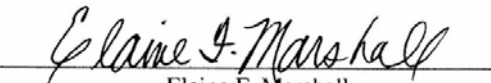
- b. Except as otherwise provided herein, the Secretary of Commerce shall incorporate into the Department of Commerce all statutory authority, powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds related to the Unemployment Insurance Division, the Employment Service Division, the Labor Market Information Division, and all other divisions or subunits of the Employment Security Commission as established by or operated pursuant to N.C. Gen. Stat. Chapter 96.
2. The Secretary of Commerce shall ensure that the state's employment security program is operated consistent with the requirements of N.C. Gen. Stat. Chapter 96
3. The Employment Security Commission shall review its regulations and shall make changes in the text of any regulations to reflect changes in the organizational structure of the Employment Security Commission as provided in this Executive Order.
4. This Executive Order shall be effective November 1, 2011 and shall remain in effect until rescinded.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 96

OFFSHORE WIND ECONOMIC DEVELOPMENT TASK FORCE

WHEREAS, at my request the United States Department of Interior through its Bureau of Ocean Energy Management, Regulation and Enforcement established a North Carolina Task Force of federal, state, and local government officials which have begun to identify viable lease blocks for the production of offshore wind energy; and

WHEREAS, it is important for our state to increase its domestic energy production by continuing to explore emerging energy production technologies and other sources of energy for North Carolina; and

WHEREAS, North Carolina seeks to develop jobs that foster America's energy independence while balancing the need to protect and maintain our state's economic and natural resources; and

WHEREAS, the offshore wind industry presents North Carolina with an opportunity to build a new industry by attracting major new manufacturing facilities which will establish a robust export market, and create jobs; and

WHEREAS, the offshore wind manufacturing and supply chain businesses are making decisions now on where to establish their facilities, thereby creating a significant economic development opportunity for North Carolina; and

WHEREAS, North Carolina has the largest offshore wind resource on the East Coast which makes the State uniquely positioned to develop offshore wind on the scale needed to attract this growing industry as well as its many jobs and manufacturing facilities; and

WHEREAS, studies have shown that the waters off the North Carolina coast have sufficient wind resources to generate about 130% of the State's total energy use; and

WHEREAS, North Carolina has the fastest growing population on the East Coast, and our State's investor-owned utilities have identified significant new electricity generation needs to accommodate projected energy demand growth; and

WHEREAS, the United States Department of Energy's Energy Information Administration released a report in November 2010 suggesting that North Carolina is the least expensive location in the nation in which to build new offshore wind generation.

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

Section 1. Establishment

The Offshore Wind Economic Development Task Force (hereinafter the "Offshore Wind Task Force" or "Task Force") is hereby established.

Section 2. Membership

- a. Members of the Offshore Wind Taskforce shall be appointed by the Governor and shall serve at the pleasure of the Governor. The Offshore Wind Task Force shall consist of 15 members, including ex-officio members. The Governor shall appoint a Chair of the Task Force.
- b. The membership of the Offshore Wind Task Force shall be composed of the following:
 1. One member shall be a representative with experience in offshore wind energy transmission planning.
 2. One member shall be a representative with experience in offshore wind energy supply chain components or manufacturing.
 3. One member shall be a representative with experience in offshore wind technologies.
 4. One member shall be a representative of an investor-owned utility appointed upon recommendation of the Speaker of the North Carolina House of Representatives.
 5. One member shall be a representative of an electric Co-op appointed upon recommendation of the President Pro Tempore of the North Carolina Senate.
 6. One member shall be a representative of the North Carolina Ports.
 7. One member shall be a representative of the transportation and logistics industry.
 8. One member shall be a representative with experience in environmental protection.
 9. One member shall be the Chair of the North Carolina Utilities Commission or the Chair's designee.
 10. One member shall be the Director of the Public Staff of the North Carolina Utilities Commission or the Director's designee.
 11. One member shall be focused on economic development in the western region of the State.
 12. One member shall be focused on economic development in the piedmont region of the State.
 13. One member shall be focused on economic development in the eastern region of the State.
 14. One At-Large member appointed by the Speaker of the North Carolina House of Representatives.

15. One At-Large member appointed by the President Pro Tempore of the North Carolina Senate.

Section 3. Duties

The Offshore Wind Taskforce shall have the following duties:

- a. Study the economic costs and benefits of developing the offshore wind industry including transmission lines, siting of manufacturing facilities, and the potential markets for offshore wind energy.
- b. Study the benefits of the State establishing a non-binding goal of developing 5,000 megawatts of offshore wind energy generation by the year 2030.
- c. Examine existing laws and regulations in North Carolina and other states to determine what policy framework is needed, at the state and local level, to recruit and retain the offshore wind industry for North Carolina.
- d. Identify a range of potential benefits and incentives that could be available for communities where the offshore wind industry may locate.
- e. Make recommendations to encourage the development of the offshore wind industry in North Carolina to ensure the industry will result in a positive net economic benefit to the state.
- f. Create guidelines which provide information on viable areas for the offshore wind industry to locate their facilities that include details on military uses, local economic development plans, zoning, land use policies and environmental concerns.
- g. Report findings and recommendations to the Governor on or before March 31, 2012.

Section 4. Meetings

The Offshore Wind Task Force shall meet monthly or upon the call of the Governor or the Chair. A majority of the Offshore Wind Task Force shall constitute a quorum for the transaction of business.

Section 5. Administration

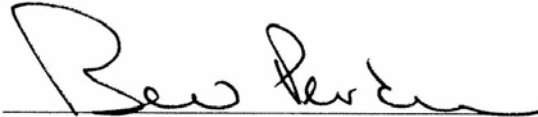
The Department of Commerce shall provide clerical support and other services required by the Offshore Wind Task Force. No per diem allowance shall be paid to members of the Task Force. Members of the Task Force and staff may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 6. Effect and Duration

This Executive Order is effective July 1, 2011. It supersedes and replaces all other executive orders on this subject. It shall remain in effect until June 30, 2015, pursuant to N.C. Gen. Stat. § 147-16.2, unless earlier rescinded.

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




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State



EXECUTIVE ORDER NO. 97

**REAUTHORIZE AND EXPAND THE GOVERNOR'S SCIENTIFIC ADVISORY
PANEL ON ENERGY AND RESCINDING EXECUTIVE ORDER NO. 23**

WHEREAS, North Carolina has many potential energy production opportunities, including oil, natural gas, wind, and other renewable sources of energy; and

WHEREAS, the United States Department of Interior through its Bureau of Ocean Energy Management, Regulation and Enforcement is currently identifying viable lease blocks for producing energy from offshore wind; and

WHEREAS, the North Carolina Geological Survey has identified deposits of natural gas and oil in North Carolina's Mesozoic basins that are exposed in the Piedmont or lie buried beneath the Atlantic Coastal Plain; and

WHEREAS, the technologies employed in extracting oil and natural gas and in harnessing wind and other energy resources are continuously evolving; and

WHEREAS, the level of scientific knowledge about the potential benefits and risks of all types of energy has also made significant advances; and

WHEREAS, wise stewardship of North Carolina's resources is vital, not only to the local economy, environment, and public health and safety, but also to that of the entire state; and

WHEREAS, any policies and positions regarding the use of North Carolina's oil, natural gas, wind, and other renewable energy resources must be based on sound science and a thorough evaluation of all available and relevant information.

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

Section 1. Establishment

The Governor's Scientific Advisory Panel on Energy ("Scientific Advisory Panel") is hereby established. The Scientific Advisory Panel shall consist of at least ten members, but no more than 20 members, including ex-officio members. The Governor shall appoint two at-large members upon recommendation of the Speaker of the North Carolina House of Representatives and two at-large members upon recommendation of the President Pro Tempore of the North Carolina Senate. The Governor shall appoint a Chair of the Scientific Advisory Panel.

Section 2. Term of Membership and Vacancies

All members shall be appointed for a term of two (2) years and shall serve at the pleasure of the Governor. A vacancy occurring during a term of appointment shall be filled by the Governor for the balance of the unexpired term.

Section 3. Meetings

The Scientific Advisory Panel shall meet quarterly or at the call of the Governor. A majority of the members of the Scientific Advisory Panel shall constitute a quorum for the transaction of business. No per diem allowance shall be paid to members of the Scientific Advisory Panel. Members of the Scientific Advisory Panel may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 4. Duties

The Scientific Advisory Panel shall have the following duties:

- a. Perform a comprehensive evaluation of the potential of all onshore energy resources available to North Carolina, including oil, natural gas, wind, and other renewable resources.
- b. Report on the current state of all relevant technologies for utilizing these resources, as well as on their feasibility for use in North Carolina.
- c. Inventory current laws, rules, and processes that affect the utilization of onshore energy resources including, but not limited to, state and federal permitting programs, local zoning and ordinances, and military access.
- d. Review relevant laws, regulations, policies, practices, and developments in other states, including those related to permitting and siting of onshore energy facilities and protection of the environment, public health, and public safety.
- e. Identify the most viable areas for onshore and offshore energy transmission and production by identifying areas of concern related to use of these onshore and offshore energy resources, including the following: economic development impacts, emergency

management and public safety, military access and use, water supplies, land use, zoning, the environment, and the existence of necessary infrastructure for resource extraction and power generation.

- f. Review the findings and recommendations of the Governor's Scientific Advisory Panel on Offshore Energy established under Executive Order No. 23 which expires September 18, 2011, and integrate such information into the work of the Scientific Advisory Panel.
- g. Report findings and recommendations to the Governor on or by December 31, 2012.

Section 6. Administration

The Department of Commerce shall provide clerical support and other services required by the Offshore Wind Task Force. No per diem allowance shall be paid to members of the Task Force. Members of the Task Force and staff may receive necessary travel and subsistence expenses in accordance with State law and the policies and regulations of the Office of State Budget and Management.

Section 5. Duration

This Executive Order is effective September 19, 2011. It supersedes and replaces all other executive orders on this subject and specifically rescinds Executive Order No. 23, dated September 18, 2009. This Executive Order shall remain in effect until September 18, 2014, pursuant to N.C. Gen. Stat. § 147-16.2, or until rescinded.

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



Beverly Eaves Perdue
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

Public Notice
North Carolina Environmental Management Commission/NPDES Unit
1617 Mail Service Center
Raleigh, NC 27699-1617
Notice of Intent to Reissue an NPDES General Wastewater Permit

The North Carolina Environmental Management Commission proposes to reissue the following NPDES wastewater general permit:

NPDES General Permit No. NCG510000 for the discharge of treated wastewater resulting from the remediation of petroleum-contaminated groundwater and similar wastewaters.

Written comments regarding the proposed general permit will be accepted until 30 days after the publish date of this notice. The Director of the NC Division of Water Quality (DWQ) may hold a public hearing should there be a significant degree of public interest. Please mail comments and/or information requests to DWQ at the above address. Interested persons may visit the DWQ at 512 N. Salisbury Street, Raleigh, NC to review information on file. Additional information on this notice may be found on our website: <http://portal.ncdenr.org/web/wq/swp/ps/npdes/calendar>, or by calling Tom Belnick at (919) 807-6390.



U.S. Department of Justice

Civil Rights Division

FILED

TCH:RSB:RPL:SMC:cv
DJ 166-012-3
2011-1856

2011 JUN 29 PM 3:33
Voting Section - NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530

OFFICE OF
ADMIN. HEARINGS

June 23, 2011

Deborah R. Stagner, Esq.
Tharrington Smith
P.O. Box 1151
Raleigh, North Carolina 27602

Dear Ms. Stagner:

This refers to the 2011 city council redistricting plan for the City of Fayetteville in Cumberland 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 May 11, 2011; additional information was received through May 25, 2011.

The Attorney General does not interpose any objection to the specified change. 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 change. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,

T. Christian Herren, Jr.
Chief, Voting Section

RECEIVED

JUN 27 2011

Tharrington Smith



U.S. Department of Justice

Civil Rights Division

TCH:RSB:JR:SHH:tst
DJ 166-012-3
2011-1821

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

June 20, 2011

Richard J. Rose, Esq.
Poyner Spruill
130 South Franklin Street
Rocky Mount, North Carolina 27804

Dear Mr. Rose:

This refers to three annexations (Ordinance Nos. 0-2009-74, 0-2009-124, and 0-2010-71) and their designation to districts of the City of Rocky Mount in Edgecombe and Nash Counties, 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 May 9, 2011.

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. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41 and 51.43.

Sincerely,

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

T. Christian Herren, Jr.
Chief, Voting Section

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 rule cited as 15A NCAC 02B .0307.

Proposed Effective Date: March 1, 2012

Public Hearing:

Date: August 30, 2011

Time: 7:00 p.m.

Location: Green Valley Elementary School, 189 Big Hill Road, Boone, NC 28607

Reason for Proposed Action: The Town of Boone has requested that portions of the South Fork New River in Ashe and Watauga Counties (New River Basin) be reclassified to include the WS-IV CA and WS-IV (PA) designations. The reclassification is needed in order to construct a potable water supply intake. The Town's water system has surpassed 80 percent of capacity, which is the Department of Environment and Natural Resources' trigger for requiring a plan for expansion.

For a riverine intake, a CA is the land and waters approximately 0.5 miles linearly upstream and draining to an intake. For this proposal, the CA would extend along the river from the proposed intake, which is to be placed nearly 0.5 miles upstream of SR 1100, to a point approximately 0.5 miles upstream of the proposed intake, which is located at a point nearly 875 feet downstream of SR 1351. There are no named tributaries to the South Fork New River in the nearly 180-acre CA. A PA for a riverine intake is the lands and waters located approximately 10 miles run-of-the-river upstream and draining to an intake. For this proposal, the PA would extend along the river from a point nearly 875 feet downstream of SR 1351 to a point approximately 1.8 miles upstream of SR 1351. The nearly 13,300-acre PA includes several entire named tributaries to the South Fork New River, and these tributaries are proposed to be reclassified to include the WS-IV designation.

Division of Water Resources staff and Division of Environmental Health staff do not object to the proposal. A Finding of No Significant Impact (FNSI) has been issued for this project, and the waters to be reclassified meet water supply water standards according to 2010 DWQ studies.

If reclassified, regulations affecting new development, new land application sites, and wastewater discharges would apply. In the proposed water supply watershed, there are no wastewater discharges or land application sites, and no known proposed discharges, land application sites or development that would be impacted by the proposal.

The proposed watershed is located entirely within the jurisdictions of Ashe County and Watauga County. Both counties would be required to, and have agreed to, modify their water supply watershed protection ordinances within 270 days after the reclassification effective date.

The Town of Boone secured an USDA - Rural Development loan and grant as well as a municipal bond in order to fund the planned project. The Town has until September 2012 to have final plans and specifications submitted to applicable agencies for review per the conditions associated with the USDA funding, and thus, requests that the reclassification become effective prior to that deadline.

Link to agency website:

<http://portal.ncdenr.org/web/wq/ps/csu/reclass>

Procedure by which a person can object to the agency on a proposed rule:

The public hearing and comment period are to be held in accordance with the federal Water Pollution Control Act (the Clean Water Act) which requires States, at least every three years, to review and revise water quality standards to protect aquatic life and human health. The process is called the Triennial Review and includes an assessment and revision of the designated uses of waters (classifications) and the water quality criteria (standards), which are based on the designated uses. More specifically, the public hearing and comment period are to address the potential assignment of a WS-IV classification to a portion of the South Fork New River watershed for the purpose of protecting its proposed designated use as a public water supply. This proposal will result in changing the water quality standards for waters within the above-mentioned Critical Area and Protected Area.

You may attend the public hearing and provide verbal comments, and/or submit written comments, data or other information by September 30, 2011. The comments, data and information provided during the comment period should specifically address the proposed reclassification of the South Fork New River. The Hearing Officer may limit the length of time that you may speak at the public hearing, if necessary, so that all those who wish to speak may have an opportunity to do so.

The Environmental Management Commission (EMC) is interested in all comments pertaining to the proposed reclassification. All persons interested and potentially affected by the proposal are encouraged to read this entire notice and make comments on the proposed reclassification. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in this notice unless the EMC publishes the text of the proposed different rule and accepts comments on the new text [General Statute 150B 21.2 (g)]. Written comments

on the proposed reclassification of the South Fork New River may be submitted to Elizabeth Kountis of the Water Quality Planning Section at the postal address, e-mail address, or fax number listed in this notice.

Comments may be submitted to: Elizabeth Kountis, DENR/DWQ Planning Section, 1617 Mail Service Center, Raleigh, NC 27699-1617, phone (919)807-6418, fax (919)807-6497, email elizabeth.kountis@ncdenr.gov

Comment period ends: September 30, 2011

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**
☒ **Local**
☐ **Substantial Economic Impact** ($\geq \$500,000$)
☐ **None**

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/DENR062920111.pdf

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0307 NEW RIVER BASIN

(a) The New River Basin Schedule of Classifications and Water Quality Standards may be inspected at the following places:

- (1) the Internet at <http://h2o.enr.state.nc.us/csu/>; and
- (2) the North Carolina Department of Environment and Natural Resources:
 - (A) Asheville Regional Office
2090 US Highway 70
Swannanoa, North Carolina;
 - (B) Winston-Salem Regional Office
585 Waughtown Street
Winston-Salem, North Carolina; and

(C) Division of Water Quality
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C."

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

- (1) August 10, 1980 see Paragraph (d) of this Rule;
- (2) April 1, 1983 see Paragraph (e) of this Rule;
- (3) February 1, 1986 see Paragraph (f) of this Rule;
- (4) August 1, 1989 see Paragraph (g) of this Rule;
- (5) August 1, 1990 see Paragraph (h) of this Rule;
- (6) August 3, 1992 see Paragraph (i) of this Rule;
- (7) February 1, 1993 see Paragraph (j) of this Rule;
- (8) August 1, 1998 see Paragraph (k) of this Rule;
- (9) November 1, 2007 see Paragraph (l) of this Rule;
- (10) December 1, 2010 see Paragraph (m) of this Rule; and
- (11) March 1, 2012 see Paragraph (n) of this Rule.

(d) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 10, 1980 as follows:

- (1) South Fork New River [Index No. 10-1-(1)] from the confluence of the Middle Fork South Fork New River and the East Fork South Fork New River to Winkler Creek was reclassified from Class C to Class A-II;
- (2) Middle Fork South Fork New River [Index Nos. 10-1-2-(6) and 10-1-2-(14)] from Brown Branch to the South Fork New River was reclassified from Class C and C Trout to Class A-II and A-II Trout;
- (3) East Fork South Fork New River [Index Nos. 10-1-3-(1) and 10-1-3-(7)] was reclassified from Class C and C Trout to Class A-II and A-II Trout; and
- (4) Winkler Creek [Index No. 10-1-4-(2) from Boone water supply intake dam to Watauga County SR 1549 and Flannery Fork [Index No. 10-1-4-3-(2)] from the dam at Camp Sky Ranch Bathing Lake to Winkler Creek were reclassified from Class C Trout to Class A-II Trout.

(e) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective April 1, 1983 as follows: Naked Creek [Index No. 10-1-32] was reclassified from Class C Trout to Class C.

(f) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective February 1, 1986 with the reclassification of all Class A-I and A-II streams to Class WS-I and WS-III in the New River Basin.

(g) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective July 1, 1989 as follows: South Fork New River [Index No. 10-1-(30)]

from Dog Creek to New River and all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.

(h) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1990 as follows:

- (1) New River [Index No. 10] from the confluence of the North and South Forks New River to the last point at which the New River crosses the North Carolina/Virginia State line was reclassified from Class C to Class C HQW;
- (2) South Fork New River [Index Nos. 10-1-(14.5), 10-1-(26), 10-1-(30), and 10-1-(33.5)] from Elk Creek to the confluence of the New River and North Fork New River was reclassified from Class C, B and WS-III to Class C HQW, B HQW and WS-III HQW;
- (3) Howard Creek [Index Nos. 10-1-9-(1) and 10-1-9-(6)] from source to the South Fork New River was reclassified from Class WS-III Trout and C Trout to Class WS-III Trout HQW and C Trout HQW;
- (4) Big Horse Creek [Index No. 10-2-21-(5.5)] from North Carolina/Virginia State line to lower Ashe County SR 1361 bridge was reclassified from Class C Trout to Class C Trout HQW; and
- (5) Little River [Index No. 10-9-(11.5)] from N.C. Hwy. 18 bridge to the North Carolina/Virginia State line was reclassified from Class C to Class C HQW.

(i) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Schedule of Classifications and Water Quality Standards for the New River Basin has been amended effective February 1, 1993 as follows:

- (1) the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified from Class B HQW to Class B ORW;
- (2) the New River (Index No. 10) from the confluence of the North And South Fork New Rivers to the last point at which it crosses the North Carolina/Virginia State line was reclassified from Class C HQW to Class C ORW; and

- (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class WS-IV Trout to Class WS-IV Trout ORW.

(k) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective August 1, 1998 with the revision to the primary classification for a portion of the South Fork New River [Index No. 10-1 (20.5)] from Class WS-IV to Class WS-V.

(l) The Schedule of Classifications and Water Quality Standards for the New River Basin was amended effective November 1, 2007 with the reclassification of Bluff Mountain Fen near Buffalo Creek [Index No. 10-2-20] to Class WL UWL as defined in 15A NCAC 02B .0101. The North Carolina Division of Water Quality maintains a Geographic Information Systems data layer of the UWL.

(m) The Schedule of Classifications and Water Quality Standards for the New River Basin is amended effective December 1, 2010 with the reclassification of the North Fork New River [Index Nos. 10-2-(1), 10-2-(12)] and its tributaries from C+, C+ Trout and C Trout HQW to C ORW and C Trout ORW with the exception of the following:

- (1) Index Nos. 10-2-21-9, 10-2-21-(8), 10-2-(11) and 10-2-20 were reclassified from C+ and C Trout + to C HQW and C Trout HQW; and
- (2) Little Buffalo Creek and Claybank Creek (Index Nos. 10-2-20-1 and 10-2-20-1-1) did not qualify for the ORW or HQW designation; however, these waters shall be managed in the same way as the downstream designated HQW areas.

(n) The Schedule of Classifications and Water Quality Standards for the New River Basin is amended effective March 1, 2012 as follows:

- (1) a portion of the South Fork New River [Index No. 10-1-(14.5)] from the Town of Boone's intake, located nearly 0.5 miles upstream of SR 1100, to a point approximately 875 feet downstream of SR 1351 from C HQW to WS-V CA HQW;
- (2) a portion of the South Fork New River [Index No. 10-1-(14.5)] from a point nearly 875 feet downstream of SR 1351 to Elk Creek from C HQW to WS-IV HQW; and
- (3) a portion of the South Fork New River [Index No. 10-1-(3.5)] from Elk Creek to a point approximately 1.8 miles upstream of SR 1351 from C+ to WS-IV +.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Marine Fisheries Commission intends to adopt the rule cited as 15A NCAC 03O .0114, amend the rules cited as 15A NCAC 03M .0519; 03O .0111 and repeal the rule cited as 15A NCAC 03M .0504.

Proposed Effective Date:

*April 1, 2012 – 15A NCAC 03M .0504, .0519;
October 1, 2012 – 15A NCAC 03O .0111, .0114*

Public Hearing:

Date: September 14, 2011

Time: 6:00 p.m.

Location: Division of Marine Fisheries Central District Office,
5285 Highway 70 West, Morehead City, NC 28557

Reason for Proposed Action:

15A NCAC 03M .0504 TROUT This rule is proposed for repeal to eliminate an unnecessary rule and continue to provide flexibility for making adjustments in size and harvest limits in the spotted seatrout fishery. These adjustments have been made since 2009 through Rule 15A NCAC 03M .0512, which gives the Fisheries Director the authority to issue proclamations to effect management measures in state or federal fishery management plans.

15A NCAC 03M .0519 SHAD Proposed amendments will incorporate the current closure of the American shad ocean fishery into N.C. permanent rule, for public clarity. The fishery was closed by proclamation on January 1, 2005 and has remained closed ever since.

15A NCAC 03O .0111 SURRENDER OF LICENSES Proposed amendments will streamline the service of process for the surrender of fishing licenses by allowing service to licensees by certified mail, in accordance with North Carolina Session Law 2010-145.

15A NCAC 03O .0114 SUSPENSION, REVOCATION AND REISSUANCE OF LICENSES This rule is proposed for adoption to establish requirements for the suspension, revocation and reissuance of licenses, in accordance with North Carolina Session Law 2010-145. This will create a fair and equitable process by treating commercial and recreational license holders consistently and by separating minor and major violations. Proposed amendments will also streamline the service of process for the surrender of fishing licenses by allowing service to licensees by certified mail.

Link to agency website:

http://www.ncfisheries.net/rules/proposed_rules.html

Procedure by which a person can object to the agency on a proposed rule: Objections shall be submitted in writing to Catherine Blum, Rulemaking Coordinator, Division of Marine Fisheries, P.O. Box 769, Morehead City, NC 28557; fax(252)726-0254, email Catherine.blum@ncdenr.gov. Explain the reasons for objection and specify the portion of the rule to which the objection is being made.

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

Comment period ends: September 30, 2011

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 (≥\$500,000)
☒ None

CHAPTER 03 - MARINE FISHERIES

SUBCHAPTER 03M - FINFISH

SECTION .0500 – OTHER FINFISH

15A NCAC 03M .0504 TROUT

- ~~(a) It is unlawful to possess spotted seatrout (speckled trout) less than 12 inches total length.~~
~~(b) It is unlawful to possess more than 10 spotted seatrout per person per day taken by hook and line or for recreational purposes.~~

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

15A NCAC 03M .0519 SHAD

- (a) It is unlawful to take American shad and hickory shad by any method except hook-and-line from April 15 through December 31.
(b) It is unlawful to possess more than 10 American shad or hickory shad, in the aggregate, per person per day taken by hook-and-line or for recreational purposes.
(c) It is unlawful to take or possess American shad from the Atlantic Ocean.

Authority G.S. 113-134; 113-182; 113-221.1; 143B-289.52.

SUBCHAPTER 03O – LICENSES, LEASES, FRANCHISES AND PERMITS

SECTION .0100 – LICENSES

15A NCAC 03O .0111 SURRENDER OF LICENSES

- (a) It is unlawful for any licensee to refuse to surrender to an agent of the Secretary all licenses, license receipts, endorsements, commercial fishing vessel registration or decals, and other forms and records relating to the license following

~~personal~~ service of notice of suspension or revocation of licenses in accordance with G.S. 113-171.

(b) It is unlawful for any person in custody or possession of any licenses, license receipt, endorsements, commercial fishing vessel registration or decals, and other ~~forms and records~~ documentation required to be surrendered to refuse to surrender same to an agent of the Secretary making such demand.

Authority G.S. 113-134; 113-171; 143B-289.52; S.L. 2010-145.

15A NCAC 030 .0114 SUSPENSION, REVOCATION AND REISSUANCE OF LICENSES

(a) All commercial and recreational licenses issued under Article 14A, Article 14B, and Article 25A of Chapter 113 are subject to suspension and revocation.

(b) A conviction resulting from being charged by an inspector under G.S. 14-32, 14-33 or 14-399 shall be deemed a conviction for license suspension or revocation purposes.

(c) Upon receipt of notice of a licensee's conviction as specified in G.S. 113-171 or a conviction as specified in Paragraph (b) of this Rule, the Fisheries Director shall determine whether it is a first, a second, a third or a fourth or subsequent conviction. Where several convictions result from a single transaction or occurrence, the convictions shall be treated as a single conviction so far as suspension or revocation of the licenses of a licensee is concerned. For a second conviction, the Fisheries Director shall suspend all licenses issued to the licensee for a period of 30 days; for a third conviction, the Fisheries Director shall suspend all licenses issued to the licensee for a period of 90 days; for a fourth or subsequent conviction, the Fisheries Director shall revoke all licenses issued to the licensee for a minimum of one year, except:

- (1) For a felony conviction under G.S. 14-399, the Fisheries Director shall suspend all licenses issued to the licensee for a period of one year;
- (2) For a first conviction under G.S. 113-187(d)(1), the Fisheries Director shall suspend all licenses issued to the licensee for a period of one year; for a second or subsequent conviction under G.S. 113-187(d)(1), the Fisheries Director shall revoke all licenses issued to the licensee for a minimum of one year;
- (3) For a conviction under G.S. 113-209, the Fisheries Director shall revoke all licenses issued to the licensee for a minimum of one year; and
- (4) For a conviction under G.S. 14-32 or 14-33, when the offense was committed against a marine fisheries inspector the Fisheries Director shall revoke all licenses issued to the licensee for a minimum of two years.

(d) After the Fisheries Director determines a conviction requires a suspension or revocation of the licenses of a licensee, the Fisheries Director shall cause the licensee to be served with written notice of suspension or revocation, as the case may be. The written notice may be served upon any responsible individual affiliated with the corporation, partnership, or association where the licensee is not an individual. The notice

of suspension or revocation shall be served by an inspector or other agent of the Department or by certified mail, must state the ground upon which it is based, and takes effect immediately upon service. The agent of the Fisheries Director making service shall then or subsequently, as may be feasible under the circumstances, collect all license certificates and plates and other forms or records relating to the license as directed by the Fisheries Director.

(e) Where a license has been suspended or revoked, the former licensee shall not be eligible to apply for reissuance of license or for any additional license authorized in Article 14A, Article 14B and Article 25A of Chapter 113 during the suspension period or revocation. Licenses shall be returned to the licensee by the Fisheries Director or the Director's agents at the end of a period of suspension. For a request for reinstatement following revocation, the eligible former licensee shall satisfy the Fisheries Director that the licensee will strive in the future to conduct the operations for which the license is sought in accord with all applicable laws and rules by sending a request for reinstatement in writing to the Fisheries Director, Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557. Upon the application of an eligible former licensee after revocation, the Fisheries Director, in the Director's discretion, may issue one license sought but not another, as deemed necessary to prevent the hazard of recurring violations of the law.

(f) It is unlawful for a licensee willfully to evade the service prescribed in this Rule.

(g) It is unlawful for a licensee to transfer any license or permit under suspension or revocation by the Division.

(h) It is unlawful for a licensee to purchase a license that is currently under suspension or revocation.

Authority G.S. 113-171; S.L. 2010-145.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to adopt the rule cited as 15A NCAC 10D .0105 and amend the rules cited as 15A NCAC 10A .1101; 10B .0101, .0106, .0114, .0201-.0203, .0215-.0216, .0219; 10D .0102-.0103; 10H .0301-.0302, .0304; 10I .0102; 10J .0102.

Proposed Effective Date:

January 1, 2012 – 15A NCAC 10A .1101; 10B .0101, .0106, .0114, .0215-.0216, .0219; 10D .0102; 10H .0301-.0302, .0304; 10I .0102; 10J .0102

August 1, 2012 – 15A NCAC 10B .0201-.0203; 10D .0103, .0105

Public Hearing:

Date: September 6, 2011

Time: 7:00 PM

Location: District 4, Bladen Community College, 7418 NC Highway 41 W, Dublin, NC

Date: September 7, 2011

Time: 7:00 PM

Location: District 5, Alamance County Courthouse, 109 South Maple Street, Graham, NC 27253-2811

Date: September 8, 2011

Time: 7:00 PM

Location: District 6, South Stanly High School, 40488 South Stanly School Road, Norwood, NC

Date: September 13, 2011

Time: 7:00 PM

Location: District 8, Municipal Auditorium, 401 College St, Morganton, NC 28655-3868

Date: September 14, 2011

Time: 7:00 PM

Location: District 9, Haywood Community College, 185 Freedlander Drive, Clyde, NC

Date: September 15, 2011

Time: 7:00 PM

Location: District 7, The Walker Center, Wilkes Community College, 1328 South Collegiate Drive, Wilkesboro, NC

Date: September 20, 2011

Time: 7:00 PM

Location: District 1, Swain Auditorium, 220 E Church St, Edenton, NC 27932

Date: September 21, 2011

Time: 7:00 PM

Location: District 2, Craven County Courthouse, 302 Broad St, New Bern, NC 28560

Date: September 22, 2011

Time: 7:00 PM

Location: District 3, Nash Community College, 522 N Old Carriage Rd, Rocky Mt, NC 27804

Reason for Proposed Action:

15A NCAC 10A .1101 - The waiver rule is proposed for amendment to allow hunters to apply for a waiver to bring a whole deer carcass harvested within 20 miles of the N.C. border into North Carolina and to allow captive cervid licensees to apply for a waiver to bring cervids into the state which do not meet the criteria set forth in the importation rule.

15A NCAC 10B .0101 - The importation rule is proposed for amendment to specify criteria for the importation of captive cervids into North Carolina.

15A NCAC 10B .0106 - The depredation rule is proposed for amendment to specify that Canada geese taken under an agricultural depredation permit must be reported to the Wildlife Resources Commission.

15A NCAC 10B .0114 - The dog training rule is proposed for amendment to allow people with valid concealed handgun carry permits to carry their weapons while training dogs.

15A NCAC 10B .0201 - The manner of take rule is proposed for amendment to allow hunters to use dogs while hunting on Sundays.

15A NCAC 10B .0202 - The bear rule is proposed for amendment to change the season structure of some counties and open other counties to bear hunting.

15A NCAC 10B .0203 - The deer rule is proposed for amendment to change the deer season structure in some counties and to comply with recent changes in statute.

15A NCAC 10B .0215 - The crow rule is proposed for amendment to allow the use of electronic calls in crow hunting.

15A NCAC 10B .0216 - The falconry rule is proposed for amendment to change the extend falconry season.

15A NCAC 10B .0219 - The coyote rule is proposed for amendment to allow the use of electronic calls in the take of coyote.

15A NCAC 10D .0102 - The restrictions on use of game lands rule is proposed for amendment to allow people holding valid concealed handgun carry permits to carry their weapons on game lands and to make other administrative changes to the management of game lands.

15A NCAC 10D .0103 - The hunting on game lands rule is proposed for amendment to change the seasons for deer on some game lands, remove obsolete text in the rule and make other changes necessary for the effective management of game lands.

15A NCAC 10D .0105 - The removal of animals, plant and other materials on game lands rule is proposed for adoption in order to clarify what animals, plants and other materials may be removed under license, or without written permission and what requires written permission.

15A NCAC 10H .0301 - The captivity license rule is proposed for amendment to allow for the issuance of new licenses to hold captive cervids.

15A NCAC 10H .0302 - The minimum standards rule is proposed for amendment to require double fencing for new captive cervid facilities.

15A NCAC 10H .0304 - The herd certification rule is proposed for amendment to refer to the importation standards in 15A NCAC 10B .0101.

15A NCAC 10I .0102 - The endangered species rule is proposed for amendment to link endangered species permits to specifications for holding wildlife in captivity specified in 15A NCAC 10H .0302.

15A NCAC 10J .0102 - The conservation areas rule is proposed for amendment to allow for people with valid concealed handgun permits to carry their weapons on conservation areas and also clarify what animals, plants and other materials need written permission in order to possess and remove.

Link to agency website: <http://www.wildlife.org>

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing or via electronic mail during the comment period ending on September 30, 2011 to C. Norman Young, Jr., North Carolina Department of Justice, SSA, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001, E-Mail: nyoung@ncdoj.gov.

Comments may be submitted to: Kate Pipkin, North Carolina Wildlife Resources Commission, 1701 Mail Service Center, Raleigh, North Carolina 27699-1721, Phone (919) 707-0065, E-Mail kathryn.pipkin@ncwildlife.org

Comment period ends: *September 30, 2011*

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 (≥\$500,000)
☒ None

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

**SUBCHAPTER 10A - WILDLIFE RESOURCES
COMMISSION**

SECTION .1100 – WAIVER

15A NCAC 10A .1101 WAIVER

(a) The executive director or his designee shall waive rule provisions listed in Paragraph (b) of this Rule and subsequent Paragraphs under specified conditions and according to the following standards:

- (1) The applicant has complied with the laws of North Carolina and with rules promulgated by the Wildlife Resources Commission; ~~Commission relative to cervids;~~
- (2) The Commission is able to safeguard the wildlife resources in North Carolina while granting the waiver; and
- (3) The applicant is able to meet the conditions of the waiver.

(b) The executive director or his designee shall waive the rule banning intrastate transfer of cervids and shall issue a transportation permit to an applicant for such a waiver provided that:

- (1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (a) of this Rule;
- (2) The eligible applicant shall first notify the Commission of the following:
 - (A) the tag number(s) assigned to the cervid;

- (B) the facility of origination;
- (C) the facility of destination;
- (D) the date(s) upon which the transfer is to take place; and
- (E) the means by which the cervid is to be transported; and

- (3) The executive director or his designee confirms receipt of the information requested in Subparagraph (b)(2) of this Rule.

Transportation of cervids between facilities that are licensed to the same individual shall be permitted upon the condition that the licensed applicant log the information required by Subparagraph (b)(2) of this Rule rather than submit a separate application for each transportation.

(c) The executive director or his designee shall waive the requirements in 15A NCAC 10B .0101 specific to the rule banning importation of cervids and shall issue a transportation permit to an applicant for such a waiver provided that:

- (1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (a) of this Rule;
- (2) The applicant is a captive cervid licensee with a Certified herd according to 15A NCAC 10H .0304;

- (3) The source U.S. or Mexican state or territory, Canadian province or other country has not detected CWD in its wild herd;

- ~~(2)(4)~~ The herd of origin for all cervids the requested cervid to be imported has met the following conditions:

- (A) The herd has been held in a facility that has been secured by a fence adequate to contain the cervid species within; fence that has not been breached or jumped by a cervid for at least five years, and into which no cervid has been introduced for at least five years;

- (B) All deceased animals over the age of 12 months of the following species have been submitted for CWD testing: white-tailed deer, white-tailed deer hybrid, Sika deer, red deer, elk, elk hybrid, moose or any other species of cervid in which the scientific community has documented naturally-occurring Chronic Wasting Disease (CWD) members of the herd that have died in the past five years have been tested for Chronic Wasting Disease [CWD]; and all CWD test results have been negative. negative; and

- ~~(C) Facility records demonstrating compliance with the conditions in this Subparagraph have been submitted with the import application.~~

- (5) The applicant can provide documentation that:

- (A) The requested cervid has not been in a facility with a CWD-positive animal within the five years prior to the importation request;
- (B) The requested cervid has never been in a facility quarantined for CWD; and
- (C) No other animals in the herd of origin, or any other herd to which the requested cervid has belonged, have been in a facility with a CWD-positive animal within the five years prior to the importation request.

- (6) The executive director is satisfied that all documentation described in Subparagraph (5) of this Rule provided to him is authentic, accurate and complete.

- ~~(3)~~(7) The eligible applicant shall provide first notify the Commission of the following details: following:

- (A) the tag number(s) or other identification assigned to the cervid; cervix;
- (B) the age and species of the cervid;
- (C) the state, province or country of origination;
- ~~(B)~~(D) the facility of origination;
- ~~(C)~~(E) the facility of destination;
- ~~(D)~~(F) the date(s) upon which the transfer is to take place; and
- ~~(E)~~(G) the means by which the cervid is to be transported. transported; and

- ~~(4)~~(8) The executive director or his designee confirms receipt of all the information requested in Subparagraph (e)(3) Paragraph (c) of this Rule.

(d) The executive director or his designee shall waive the rule against cervid facility expansion and to amend a license to permit expansion to an applicant for such a waiver provided that:

- (1) The executive director or his designee confirms the applicant's eligibility for a waiver according to standards listed in Paragraph (a) of this Rule;
- (2) The eligible applicant shall first notify Commission of the following:
 - (A) the location of the facility for which expansion is desired;
 - (B) the number of cervids held at that facility;
 - (C) the number of births or purchases of cervids expected within a year of the application; and
 - (D) the proposed capacity for which expansion is desired; and
- (3) The executive director or his designee confirms receipt of the information requested in Paragraphs (c) and (d) of this Rule.

(e) The executive director or his designee shall waive the rule banning the importation of a cervid carcass or carcass part from

any state or province where Chronic Wasting Disease occurs and issue a waiver letter to an applicant provided that:

- (1) The executive director or his designee determines that the applicant is eligible for a waiver according to standards listed in Paragraph (a) of this Rule;
- (2) The applicant has complied with the laws of state where the cervid was or will be harvested; and
- (3) The cervid was or will be harvested within 20 miles of the North Carolina state line.

Authority G.S. 113-134; 113-274; 150B-19(6).

SUBCHAPTER 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

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. Only captive cervid licensees with Certified Herds as defined in 15A NCAC 10H .0304 may obtain permits to import cervids.

(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. ~~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.~~ There shall be no importation of any cervid 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) Importation permits for white-tailed deer, white-tailed deer hybrids, Sika deer, red deer, elk, elk hybrids, moose or any other species of cervid in which the scientific community has documented naturally-occurring CWD will only be issued for animals that come from The individual U.S. or Mexican states or territories, state or territory, Canadian provinces province or other countries country of origin which have a license type, certification program or monitoring program that requires captive cervid facility owners to, at a minimum,;~~

- (1) submit for CWD testing all deceased animals over the age of 12 months;
- (2) tag, tattoo or otherwise permanently mark all animals over the age of 12 months; and
- (3) keep records of all acquisitions and all dispositions in the facility.

The requirements specified in Subparagraphs (1), (2) and (3) of this Paragraph apply only to the following species of cervid: white-tailed deer, white-tailed deer hybrids, Sika deer, red deer, elk, elk hybrids, moose or any other species of cervid in which the scientific community has documented naturally-occurring CWD. 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. Importation permit applications must indicate the source herd and the source herd must be successfully participating in a certification program or monitoring program with the requirements listed in this paragraph, or else have a license type that does the same. 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.~~

(d) Importation permits for cervid species not specified in Paragraph (c) of this Rule, except mule deer (G.S. 113-294(p)), will only be issued for animals which have been kept in a fenced facility which has not contained any of the species specified in Paragraph (c) of this Rule for at least five years prior to importation. All animals from mixed herds are subject to the restrictions in Paragraph (c) of this Rule.

~~(e)~~(e) 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.

~~(4)~~(f) 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.

Authority G.S. 106.549.97; 113-134; 113-272.6; 113-274; 113-291.3.

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

(a) Depredation Permit:

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

of a landholder and after such investigation of the circumstances as he may require, issue a permit to such landholder to take any species of wildlife which is or has been damaging or destroying his property provided there is evidence of property damage in excess of fifty dollars (\$50.00). No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit, if required, has been issued. The permit shall name the species allowed to be taken and, in the discretion of the Executive Director or an agent, may contain limitations as to age, sex or any other condition within the species so named. The permit may be used only by the landholder or another person named on the permit.

- (3) Special Circumstances. In addition to the circumstances described in Subparagraph (2) of this Paragraph, the Executive Director or his designee may issue a permit to a person or persons for the taking of wildlife resources in circumstances of overabundance or when the wildlife resources present a danger to human safety. Municipalities 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. The nonedible portions of the carcass, including head, hide, feet, and antlers, shall be

disposed of as specified in Subparagraph (1) of this Paragraph or turned over to a wildlife enforcement officer for disposition. When a deer is accidentally killed on a road or highway by reason of collision with a motor vehicle, the law enforcement officer who investigates the accident shall, upon request of the operator of the vehicle, provide such operator a written permit authorizing him to possess and transport the carcass of such deer for his personal and lawful use, including delivery of such carcass to a second person for his private use or the use by a charitable organization upon endorsement of such permit to such person or organization by name and when no money or other consideration of value is received for such delivery or endorsement.

- (3) Fox. Any fox killed accidentally shall be disposed of in the manner provided by Subparagraph (1) or (6) of this Paragraph. Any fox killed under a depredation permit may be disposed of in the same manner or, upon compliance with the fur tagging requirements of 15A NCAC 10B .0400, the carcass or pelt thereof may be sold to a licensed fur dealer.
- (4) Furbearing Animals. The carcass or pelt of any furbearing animal killed during the open season for taking such furbearing animal either accidentally or for control of depredations to property, whether with or without a permit, may be sold to a licensed fur dealer provided that the person offering such carcass or pelt for sale has a valid hunting or trapping license, provided further that, bobcats and otters may only be sold upon compliance with any required fur tagging requirement set forth in 15A NCAC 10B .0400.
- (5) Animals Taken Alive. Wild animals in the order Carnivora and beaver shall be humanely euthanized either at the site of capture or at a facility designed to humanely handle the euthanasia or released on the property where captured. Animals transported or held for euthanasia must be euthanized within 12 hours of capture. Anyone in possession of live animals being transported for relocation or euthanasia under a depredation permit must have the depredation permit in 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, Canada goose, 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.

Authority G.S. 113-134; 113-273; 113-274; 113-291.4; 113-291.6; 113-300.1; 113-300.2; 113-307; 113-331; 113-333; 113-334(a); 113-337.

15A NCAC 10B .0114 DOG TRAINING AND FIELD TRIALS

(a) Except as provided in Paragraphs (b) and (c) of this Rule, each person engaged in training or running a dog or dogs and each active participant in a field trial shall have obtained a North Carolina hunting license. The term "active participant" as used herein includes each person who owns or handles dogs, carries a

firearm, or is a member of an organized group engaged in the conduct of a field trial, but does not include a person who is observing a field trial incidentally or who has stopped to witness a part of it.

(b) A person serving as judge of a commission-sanctioned field trial and any nonresident participating therein may do so without having a North Carolina license, provided such nonresident has in his possession a valid hunting license issued by the state of his residence. A "commission-sanctioned" field trial is one which, pursuant to a written request from the sponsoring organization, has been authorized in writing and scheduled for occurrence by an authorized representative of the Wildlife Resources Commission.

(c) Persons without license may participate in commission-sanctioned field trials for beagles conducted without firearms on private field trial areas which are fenced in accordance with G.S. 113-276(k).

(d) Except as allowed by regulations pertaining to authorized field trials, and handguns carried by individuals with valid concealed handgun permits, it is unlawful to carry firearms, axes, saws or climbing irons while training or running dogs during closed season on game animals.

(e) Except as authorized in this Paragraph, ~~no firearms~~ except handguns carried by individuals with valid concealed handgun permits, or other hunting weapons may shall be possessed or used during any field trial for foxhounds or any field trial conducted during the closed hunting season for any other species of wildlife serving as the quarry or prey. On a commission-sanctioned field trial for retrievers or bird dogs, shotguns containing live ammunition or firearms using only blank ammunition may be used only when the application for and the authorization of the field trial so provide. No wild waterfowl, quail or pheasant shall be used in field trials when shotguns with live ammunition are permitted. All waterfowl, quail and pheasants so used shall be obtained from a licensed game bird propagator. Each specimen of waterfowl so obtained shall be marked by one of the methods provided by 50 C.F.R. 21.13. Each pheasant or quail so obtained shall be banded by the propagator prior to delivery with a leg band that is imprinted with the number of his or her propagation license. The purchaser of such birds shall obtain a copy of the receipt from the propagator showing the date and the number and species of birds purchased. The copy of the receipt shall be available for inspection by any authorized agent of the Wildlife Resources Commission during the time and at the place where the trial is being held.

(f) Applications for authorization of a field trial shall be submitted in writing to a Wildlife Enforcement Officer at least 30 days prior to the scheduled event.

(g) Pursuant to G.S. 113-291.1(d), hunters may train dogs using shotguns with shot of number 4 size or smaller during the closed season using domestically raised waterfowl and domestically raised game birds. Only nontoxic shot shall be used when training dogs using domestically raised waterfowl. All domestically raised waterfowl shall be individually tagged on one leg with a seamless band stamped with the number of the propagation license for the facility from which the domestically raised waterfowl originated. All other domestically raised game birds shall be individually tagged on one leg with a band

indicating the propagation license number for the facility from which the birds originated.

Authority G.S. 113-134; 113-273; 113-276; 113-291.1; 113-291.5; 50 C.F.R. 21.13.

SECTION .0200 - HUNTING

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

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

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

(1) Only archery equipment as described in 15A NCAC 10B .0116, falconry, and dogs where and when allowed the other days of the week ~~15A NCAC 10B .0116 and falconry~~ are lawful methods of take; and

(2) Migratory game birds may not be taken on Sundays.

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

(1) Only falconry and dogs used in conjunction with falconry are ~~is a lawful methodsmethod~~ of take; and

(2) Migratory game birds may not be taken on Sundays.

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

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

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

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

15A NCAC 10B .0202 BEAR

(a) Open Seasons for bear shall be from the:

(1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of Surry, Wilkes, Caldwell, Burke and Cleveland counties, 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)(2) Second Monday in November to January 1 in all of Bladen, Carteret, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender and Sampson counties.~~

~~(4)(3) First Monday in December to the third Saturday thereafter in Brunswick and Columbus counties.~~

~~(5)(4) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in all of Alexander, Beaufort, Camden, Catawba, Chowan, Craven, Dare, Edgecombe, Greene, Halifax, Harnett, Hyde, Iredell, Johnston, Jones, Lenoir, Martin, Nash, Northampton, Pasquotank, Pitt, Stokes, Tyrrell, Vance, Warren, and Washington, Washington, Wayne, Wilson and Yadkin counties.~~

~~(6)(5) 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.

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

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

(a) Open Seasons (All Lawful Weapons)

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

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

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

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

(B) Saturday before Thanksgiving through January 1 in all Alexander, Alleghany, Ashe, Catawba, Davie, Forsyth, Gaston, Iredell, Lincoln, Stokes, Surry, Watauga, Wilkes*, and Yadkin counties.

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

(C) Monday of Thanksgiving week through the third Saturday after Thanksgiving Day in all of Avery, Buncombe, Burke, Caldwell,

- Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Swain, Transylvania, and Yancey counties.
- (D) Two Saturdays before Thanksgiving through January 1 in all of Alamance, Anson, Cabarrus, Caswell, Chatham, Davidson, Durham, Granville, Guilford, Lee, Mecklenburg, Montgomery, Orange, Person, Randolph, Rockingham, Rowan, Stanly, and Union counties.
- (E) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.
- (F) Monday of Thanksgiving week through the fifth Saturday after Thanksgiving Day in all of Cleveland and Rutherford counties, except for South Mountain Game Land.
- (2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in this Subparagraph: (Refer to 15A NCAC 10D .0103 for either sex seasons on Game Lands):
- (A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge, in those parts of Hyde, Tyrrell and Washington counties known as the Pocosin Lakes National Wildlife Refuge, in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge, and in those parts of Currituck County known as the Currituck National Wildlife Refuge and the Mackay Island National Wildlife Refuge.
- (B) The open either-sex deer hunting dates established by the appropriate military commands during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.
- (C) Youth either sex deer hunts. First Saturday in October for youth either sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission and the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission.
- (D) The last open day of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Buncombe, *Haywood, Henderson, Madison and Transylvania counties** and the following parts of counties:
Avery: That part south of the Blue Ridge Parkway; and
Yancey: That part south of US 19 and US 19E.
*except for that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280
**see 15A NCAC 10D .0103 for deer of either sex seasons on game lands that differ from the days identified in this Subparagraph
- (E) The last six open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Burke, Caldwell, McDowell, Mitchell, ~~Mitchell~~, ~~Polk~~ and the following parts of counties:
Avery: That part north of the Blue Ridge Parkway;
Yancey: That part north of US 19 and US 19E.

- (F) The first six open days and the last six open days of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of ~~Cleveland~~ Cleveland, Polk and Rutherford counties.
- (G) All the open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in and east of Ashe, Watauga, Wilkes, Alexander, Catawba, Lincoln and Gaston counties and in the following parts of counties:
 Buncombe: That part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280; and
 Henderson. That part east of NC 191 and north and west of NC 280.

(b) Open Seasons (Bow and Arrow)

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow during the following seasons:
- (A) Saturday on or nearest September 10 to the third Friday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (a)(1) of this Rule, except on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands.
- (B) Saturday on or nearest September 10 to the third Friday before Thanksgiving in the counties and parts of counties having the open seasons for Deer with Visible Antlers specified by Part (B) of Subparagraph (b)(1) of this Rule except for that portion of Buffalo Cove Game Land in Wilkes County.
- (C) Monday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (C) of Subparagraph (a)(1) of this Rule and in Cleveland and Rutherford counties.
- (D) Saturday on or nearest September 10 to the fourth Friday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (b)(1) of this Rule, and on Nicholson

Creek, Rockfish Creek and Sandhills Game Lands.

(2) Restrictions

- (A) Dogs may not be used for hunting deer during the bow and arrow ~~season-season~~, except a single dog on a leash may be used to retrieve a wounded deer in accordance with G.S. 113-291.1(k).
- (B) It is unlawful to carry any type of firearm while hunting with a bow during the bow and arrow deer hunting ~~season-season~~, except:
 (i) if the firearm is a handgun carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina; or
 (ii) the firearm is a .22 caliber rimfire pistol carried for the purpose of dispatching a wounded deer in accordance with G.S. 113-291.1(k).
- (C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

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

- (1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with muzzle-loading firearms and bow and arrow during the following seasons:
- (A) The Saturday on or nearest October 1 to the Friday of the second week thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (A) of Subparagraph (a)(1) of this Rule, except on Nicholson Creek, Rockfish Creek and Sandhills Game Lands.
- (B) The third Saturday preceding Thanksgiving until the Friday of the second week thereafter in the counties* and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (a)(1) of this Rule.

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

(C) Monday on or nearest October 1 to the Saturday of the second week thereafter in Cleveland and Rutherford counties and in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part C of Subparagraph (a)(1) of this Rule.

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

(2) Restrictions

(A) Deer of either sex may be taken during muzzle-loading firearms and bow and arrow season in and east of the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, Watauga, and Ashe. Deer of either sex may be taken on the last day of muzzle-loading firearms and bow and arrow season in all other counties.

(B) Dogs shall not be used for hunting deer during the muzzle-loading firearms and bow and arrow ~~seasons~~ seasons, except a single dog on a leash may be used to retrieve a wounded deer in accordance with G.S. 113-291.1(k).

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

(i) a handgun may be carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina; and

(ii) a .22 caliber rimfire pistol may be carried for the purpose of dispatching a wounded deer in accordance with G.S. 113-291.1(k).

(1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer of either sex may be taken with bow and arrow in participating cities in the state, as defined in G.S. 160A-1(2), from the second Saturday following January 1 to the fifth Saturday thereafter. Deer shall not be taken on any game land or part thereof that occurs within a city boundary.

(2) Participation. Cities that intend to participate in the urban season must send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee. Cities must also submit a map of the city's boundaries within which the urban season shall apply.

(3) Restrictions:

(A) Dogs shall not be used for hunting deer during the urban ~~season~~ season, except a single dog on a leash may be used to retrieve a wounded deer in accordance with G.S. 113-291.1(k).

(B) It is unlawful to carry any type of firearm while hunting with a bow during the urban ~~season~~ season, except:

(i) if the firearm is a handgun carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina; or

(ii) the firearm is a .22 caliber rimfire pistol carried for the purpose of dispatching a wounded deer in accordance with G.S. 113-291.1(k).

(C) Only bows and arrows of the types authorized in 15A NCAC 10B .0116 for taking deer shall be used during the urban season.

(e) Bag limits. In and east of Vance, Franklin, Wake, Harnett, Moore and Richmond counties, the possession limit is six deer, up to four of which may be deer with visible antlers. In all other counties of the state the possession limit is six deer, up to two of which may be deer with visible antlers. The season limit in all counties of the state is six deer. In addition to the bag limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card on lands others than lands enrolled in the Commission's game land program during any open deer season in all counties and parts of counties of the

(d) Open Season (Urban Season)

State identified in Part (G) of Subparagraph (a)(2) of this Rule. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit. Hunters may also use the bonus antlerless harvest report cards for deer harvested during the season described in Paragraph (d) of this Rule within the boundaries of participating municipalities, except on state-owned game lands. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The bag limits described above do not apply to deer harvested in areas covered in the Deer Management Assistance Program (DMAP) as described in G.S. 113-291.2(e) for those individuals using Commission-issued DMAP tags and reporting harvest as described on the DMAP license. Season bag limits shall be set by the number of DMAP tags issued and in the hunters' possession. All deer harvested under this program, regardless of the date of harvest, shall be tagged with these DMAP tags and reported as instructed on the DMAP license. The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license for deer tagged with the DMAP tags. Any deer harvested on lands enrolled in the DMAP and not tagged with DMAP tags may only be harvested during the regularly established deer seasons subject to all the restrictions of those seasons, including bag limits, and reported using the big game harvest report card or the bonus antlerless harvest report card.

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

15A NCAC 10B .0215 CROWS

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

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

(b) Bag Limits: No restriction.

(c) Manner of Take. Hunters may use electronic calls.

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

15A NCAC 10B .0216 FALCONRY

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

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

(c) Out of Season Kills. When any raptor being used in falconry kills any species of wildlife for which there is no open

season or a species of game on which the season is then closed, the falconer or person using such raptor shall not take such dead wildlife into his possession but shall leave the same where it lies, provided that the said raptor may be allowed to feed on such dead wildlife before leaving the site of the kill. If the species so killed is a resident species of game on which there is a season limit, the kill shall be included as part of the season limit of the person using the raptor for falconry.

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

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

Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

15A NCAC 10B .0219 COYOTE

(a) No closed season.

(b) Bag Limits: No restriction.

(c) Manner of Take. Hunters may use electronic calls.

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

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

(a) Trespass. Entry on game lands for purposes other than hunting, trapping or fishing shall be as authorized by the ~~landowner. 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.~~ Firearms and archery equipment may only be possessed 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, fox or coyote, except firearms and archery equipment may also be possessed under the following conditions:

- (1) ~~unless the device is cased or not immediately available for use, or~~

- (2) ~~provided that such devices may be possessed and the device is used by persons participating in field trials on field trial areas, areas, or~~
- (3) ~~and the device is used by persons on target shooting areas designated by the landowner, or~~
- (4) ~~and the device is possessed in designated camping areas for defense of persons and property; or~~
- (5) ~~and provided further that the device is a .22 caliber pistol-pistol with barrels-a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition may be carried as a side arm arms-on game lands at any time other than by deer hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons-season, except under conditions authorized in G.S. 113-291.1(k), and by individuals training dogs during closed season without field trial authorization-authorization, or~~
- (6) the device is a handgun carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. The permission to carry a handgun does not apply on the following game lands: Bladen Lakes State Forest, Buckhorn, Butner-Falls of Neuse, Chatham, DuPont State Forest, Harris, Hyco, Jordan, Kerr Scott, Lee, Mayo, Pee Dee River north of U.S 74, Sutton Lake, Vance and that portion of R. Wayne Bailey-Caswell that is located north of U.S. 158 and east of N.C. 119.

This ~~Rule-Paragraph~~ 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, shot and~~ archery equipment as defined in ~~45A NCAC 10B .0116~~ 15A NCAC 10B .0116, and handguns carried by individuals with valid concealed handgun permits 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)(1) 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 two hundred dollars (\$200.00) ~~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 seventy-five dollars (\$75.00) ~~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 the Hunting Creek Swamp Waterfowl Refuge;~~
- ~~(6)(5)~~ on the John's River Waterfowl Refuge in Burke County; and
- ~~(7)(6)~~ 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.

(r) Limited-access Roads. During the months of June, July and August, roads posted as "Limited-access Roads" are open to motorized vehicles from 5:00 a.m. to 10:00 p.m. only. These roads shall be posted with the opening and closing times.

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

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. Days, except falconry may also be practiced on Sundays. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (3) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons.

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

(g) Bear Sanctuaries. On Three Days per Week Areas and Six Days per Week Areas bears shall not be taken on lands designated and posted as bear sanctuaries except when authorized by permit only elsewhere in this Chapter. Wild boar shall not be taken with the use of dogs on bear sanctuaries. Dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15 on bear sanctuaries in and west of the counties and parts of counties described in 15A NCAC 10B .0109.

(h) The listed seasons and restrictions apply in the following game lands:

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.
- (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (4) Bachelor Bay Game Land in Bertie, Martin and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Handguns shall not be carried and, except for muzzle-loaders, rifles

larger than .22 caliber rimfire shall not be used or possessed.

- (D) On the Singletary Lake Tract deer and bear may be taken only by still hunting.
- (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
- (F) Camping is restricted to September 1 through February 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 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, 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.
 - (C) The use of dogs for hunting deer is prohibited.
- (17) R. Wayne Bailey-Caswell Game Land in Caswell County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. ~~Deer of either sex may also be taken the Thursday and Friday preceding the Central muzzle loading season with any legal weapon by participants in the Disabled Sportsman Program who acquire special hunt permits.~~
 - (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
 - (D) The area encompassed by the following roads is 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 hunting days during the second week of the December bear season 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)~~ Beginning on the first open waterfowl day in October through the end of the waterfowl season, waterfowl hunting from designated Disabled Sportsmen blinds on the Catfish Lake Waterfowl Impoundment is by permit only.
- ~~(D)(E)~~ Dove hunting is by permit only for the first two open days 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.
- (41) (D) The use or construction of permanent hunting blinds is prohibited.
- 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.
 - (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 all 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) 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

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| <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat.</p> <p>(D)(C) Horseback riding is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).</p> <p>(61) Pond Mountain Game Land in Ashe County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.</p> <p>(C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.</p> <p>(D) Deer and bear hunting is by permit only.</p> <p>(62) Pungo River Game Land in Hyde County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(63) Rhodes Pond Game Land in Cumberland and Harnett counties</p> <p>(A) Hunting is by permit only.</p> <p>(B) Swimming is prohibited on the area.</p> <p>(64) Roanoke River Wetlands in Bertie, Halifax, Martin and Northampton counties</p> <p>(A) Hunting is by Permit only.</p> <p>(B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.</p> <p>(C) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas, 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.</p> <p>(65) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.</p> <p>(66) Robeson Game Land in Robeson County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(67) Rockfish Creek Game Land in Hoke County</p> | <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving.</p> <p>(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.</p> <p>(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.</p> <p>(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(F) The use of dogs for hunting deer is prohibited.</p> <p>(G) Wild turkey hunting is by permit only.</p> <p><u>(H) Taking fox squirrels is prohibited.</u></p> <p>(68) Rocky Run Game Land in Onslow County: Hunting is by permit only.</p> <p>(69) Sampson Game Land in Sampson County</p> <p>(A) Three Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(70) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties</p> <p>(A) Three Days per Week Area</p> <p>(B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the 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. <u>the Deer with Visible antlers season, and from the third Monday after Thanksgiving through January 1, except on the field trial grounds.</u> 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. <u>season, and</u></p> |
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- from the third Monday after Thanksgiving through January 1, except on the field trial grounds.
- (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 cooperator agent or by phone.
- (j) The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission: Bertie, Halifax and Martin counties-Roanoke River Wetlands Bertie County-Roanoke River National Wildlife Refuge Bladen County—Suggs Mill Pond Game Lands Burke County—John's River Waterfowl Refuge Dare County-Dare Game Lands (Those parts of bombing range posted against hunting) Dare County—Roanoke Sound Marshes Game Lands ~~Davie Hunting Creek Swamp Waterfowl Refuge~~ Henderson and Transylvania counties—Dupont State Forest Game Lands
- (k) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission.
- ~~(k)(l)~~ 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.
- ~~(m)~~ 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.
- ~~(n)~~ 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.

~~(a)(o)~~ As used in this Rule, horseback riding includes all equine species.

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

15A NCAC 10D .0105 POSSESSION AND REMOVAL OF ANIMALS, PLANTS AND MATERIALS

(a) For purposes of this Rule, the following definitions apply:

- (1) "Other materials" includes the following: all metals, minerals, rocks, soil, organic debris, buildings, fences, historic artifacts and water.
- (2) "Commission lands" includes all state-owned game lands, hatcheries, depots, refuges, boating access areas and public fishing access areas, or parts thereof, allocated to the Wildlife Resources Commission.
- (3) "Written permission" includes permits, sales agreements, agricultural agreements, and letters written by authorized Commission personnel. Written permissions shall specify the type of activity allowed, the Commission land(s) where the activity may occur and the persons authorized.

(b) On Commission lands the following applies:

- (1) No wildlife resources, fungi, invertebrates, eggs, nests, animal parts, plants, plant materials, or other materials may be possessed on or removed from Commission lands except:
 - (A) as allowed in this Rule;
 - (B) if written permission has been granted by the Wildlife Resources Commission.

This restriction applies to both dead and living wildlife resources, fungi, invertebrates, eggs, animal parts, plants and plant materials.
- (2) All game, fur-bearing animals, fisheries resources, and nongame animals or birds for which the Commission has established an open season, legally taken under a valid hunting, trapping, fishing or falconry license may be possessed on and removed from Commission lands unless specifically prohibited.
- (3) Berries, fruit, nuts, mushrooms, ramps and other plants or plant products suitable for human consumption may be possessed on and removed from Commission lands without written permission for personal consumption only, except any fungi, plant or part thereof on a state or federal protected list may not be possessed on or removed from Commission lands without written permission. All other fungi, plants and plant products which are not suitable for human consumption may not be possessed on or removed from Commission lands except with written permission. Crops or products thereof planted for the benefit of

wildlife may not be removed without written permission.

- (4) Insects, worms or other invertebrates collected as fish bait may be possessed on and removed from Commission lands without written permission for personal use only, except any species on a state or federal protected list may not be collected and may not be removed from Commission lands. Sale of these resources is prohibited.
- (5) Miscellaneous amounts of animal parts, plant parts not removed from live plants, and other materials may be possessed on and removed from Commission lands without written permission, except in violation of state agency rules, general statutes or federal law. Collection of animal parts, plant parts not removed from live plants, and other materials for commercial use or sale is prohibited.
- (6) Litter and road kill animals may be removed without written permission, except in violation of 15A NCAC 10B .0106.
- (7) A collection license as described in 15A NCAC 10B .0119 does not qualify as written permission to collect or remove any wildlife resources from Commission lands. Written permission must be specific to the Commission land.

(c) On all other lands enrolled in the game land program the following apply:

- (1) All game, fur-bearing animals, fisheries resources, and nongame animals or birds for which the Commission has established an open season, legally taken under a valid hunting, trapping, fishing or falconry license may be possessed on and removed from game lands unless specifically prohibited.
- (2) Possession and removal of all other wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, plant materials, or other materials is subject to the rules of the Commission and is at the discretion of the landowner, except where the landowner has ceded authority to the Commission. When the landowner has ceded authority to the Commission, the permissions and restrictions in Paragraph (b) of this Rule apply.

(d) Any individual who has written permission, or a hunting, trapping, fishing or falconry license required in order to possess or remove wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, plant materials, or other materials from Commission lands and all other lands enrolled in the game land program must have that written permission or license on his person. This requirement extends to any individual operating in conjunction with another's written permission.

Authority G.S. 113-134; 113-264; 113-291; 113-291.2; 113-305; 113-333.

SUBCHAPTER 10H - REGULATED ACTIVITIES

SECTION .0300 - HOLDING WILDLIFE IN CAPTIVITY

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.~~
- (E) For the purposes of expanding a currently existing captive cervid facility which is not a Certified herd facility as described in Rule .0304 of this Section.

- (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. Fawns and calves must be tagged with a button ear tag before sale or transfer to another captive cervid facility within North Carolina. The receiver is required to affix the bangle ear tag before March 1 following the birth of the calf or fawn.
- (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.~~ Disease or for the purpose of stocking a new captive cervid facility. For purposes of this Paragraph a "new captive cervid facility" is one that has been licensed for fewer than six months. 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.

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

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. Facilities licensed after

January 1, 2012 shall have two fences meeting these standards surrounding the facility and placed at least three feet apart. Enclosures and enclosure expansions may not contain wild deer or elk. The licensee shall ensure his enclosure is devoid of wild deer or elk before stocking with cervids. 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.

Dimensions in Feet

Animal	Length	Width	Height	Per Animal
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

- (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:

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.

- (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 weaning. After weaning, if the animals are kept together, the requirements for multiple-animal enclosures apply.

Authority G.S. 19A-11; 106-549.97(b); 113-134; 113-272.5, 113-272.6.

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

(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 under the conditions and restrictions set forth in 15A NCAC 10B .0101. Licensees with Certified Herds are also eligible to apply for an importation waiver as described in 15A NCAC 10A .1101, if necessary. ~~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.

Authority G.S. 106-549.97(b); 113-134; 113-272.5; 113-272.6; 113-274; 113-292.

SUBCHAPTER 10I - ENDANGERED AND THREATENED SPECIES

SECTION .0100 - ENDANGERED AND THREATENED SPECIES

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

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

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

- (1) To an individual or institution with experience and training in handling, and caring for the wildlife and in conducting a scientific study, for the purpose of scientific investigation relevant to perpetuation or restoration of said species or as a part of a scientifically valid study or restoration effort;
- (2) To a public or private educator or exhibitor who demonstrates that he or she has lawfully obtained the specimen or specimens in his or her possession, ~~and that he or she~~ possesses the requisite equipment and expertise to care for such specimen or ~~specimens; specimens~~ and abides by the caging requirements for the species set forth in 15A NCAC 10H .0302;
- (3) To a person who lawfully possessed any such species for more than 90 days immediately prior to the date that such species was ~~listed~~, listed and who abides by the caging requirements for the species set forth in 15A NCAC 10H .0302, provided however, that no permit shall be issued more than ninety days after the effective date of the initial listing for that species; and
- (4) To a person with demonstrable depredation from a Special Concern species the Executive Director may issue a depredation permit.

(c) Taking Without a Permit:

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

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

(e) Exceptions.

- (1) Notwithstanding any other provisions of this Rule, processed meat and other parts of American alligators, which have been lawfully taken in a state in which there is an open season for harvesting alligators, may be possessed, bought and sold when such products are marketed in packages or containers which are distinctly labeled to indicate the state in which they were taken and the identity, location, and lawful authority of the processor or distributor;
- (2) Raptors listed as special concern species in Rule .0105 of this Subchapter may be taken from the wild for falconry purposes and for falconry propagation, provided that a valid North Carolina endangered species permit has been obtained as required in Paragraph (b) of this Rule;
- (3) Captive-bred raptors listed as special concern species may be bought, sold, bartered or traded as provided in 50 C.F.R. 21.30 when marked as required under those regulations; and
- (4) Importation, possession, sales, transportation and exportation of species listed as special concern species in Rule .0105 of this Subchapter shall be allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research; provided that the specimens were lawfully obtained from captive or wild populations outside of North Carolina; and that they must be possessed in indoor facilities; and that all transportation of specimens provides safeguards adequate to prevent accidental escape; and that importation, possession and sale or transfer is permitted only as listed in Subparts (e)(4)(A) and (B) of this Rule.

(A) A written application to the Commission is required for a permit to authorize importation, and possession for the purpose of retail or wholesale sale. The application shall identify the source of the specimens, and provide documentation of lawful acquisition. Applications for permits shall include plans for holding, transportation, advertisement, and sale in such detail as to allow a determination of the safeguards provided against accidental escape and sales to unauthorized individuals.

(B) Purchase, importation, and possession of special concern species within North Carolina shall be allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions; provided that sales are permitted to out of state consumers; and, provided that they must be possessed in indoor facilities and that all transportation of specimens provides safeguards adequate to prevent accidental escape; and that the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and, further provided that no specimens may be stocked or released in the public or private waters or lands of North Carolina and may not be transferred to any private individual.

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

SUBCHAPTER 10J - WILDLIFE CONSERVATION AREA REGULATIONS

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, 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~~ Firearms and archery equipment may only be possessed 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 except firearms and archery equipment may also be possessed under the following conditions:

- (1) ~~unless such the device is cased or not immediately available for use, or~~

- (2) ~~provided that such devices~~ the device may be possessed in designated camping areas for defense of persons and ~~property, property, or~~
- (3) ~~and provided further that the device is a .22 caliber pistol pistols with a barrelbarrels~~ not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition ~~may be carried as a side arm arms~~ on designated wildlife conservation areas at any time other than by deer hunters during the special bow and arrow and muzzle-loading firearms deer hunting seasons-season, except under conditions authorized in G.S. 113-291.1(k), or
- (4) the device is a handgun carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina.

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.

(o) Possession and removal. No living or dead nongame wildlife, fungi, invertebrates, eggs, nests, animal parts, plants, plant materials, or other materials may be possessed on or removed from conservation areas without written permission from the Commission. For purposes of this Rule, "other materials" includes the following: all metals, minerals, rocks,

soil, organic debris, buildings, fences, historic artifacts and water.

Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 113-296; 113-297.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10C .0205, .0305, .0401, .0404, .0503; 10E .0104.

Proposed Effective Date:

August 1, 2012 – 15A NCAC 10C .0205, .0401, .0404, .0503; 10E .0104

March 1, 2012 – 15A NCAC 10C .0305

Date: September 6, 2011

Time: 7:00 PM

Location: District 4, Bladen Community College, 7418 NC Highway 41 W, Dublin, NC

Date: September 7, 2011

Time: 7:00 PM

Location: District 5, Alamance County Courthouse, 109 South Maple Street, Graham, NC 27253-2811

Date: September 8, 2011

Time: 7:00 PM

Location: District 6, South Stanly High School, 40488 South Stanly School Road, Norwood, NC

Date: September 13, 2011

Time: 7:00 PM

Location: District 8, Municipal Auditorium, 401 College St, Morganton, NC 28655-3868

Date: September 14, 2011

Time: 7:00 PM

Location: District 9, Haywood Community College, 185 Freedlander Drive, Clyde, NC

Date: September 15, 2011

Time: 7:00 PM

Location: District 7, The Walker Center, Wilkes Community College, 1328 South Collegiate Drive, Wilkesboro, NC

Date: September 20, 2011

Time: 7:00 PM

Location: District 1, Swain Auditorium, 220 E Church St, Edenton, NC 27932

Date: September 21, 2011

Time: 7:00 PM

Location: District 2, Craven County Courthouse, 302 Broad St, New Bern, NC 28560

Date: September 22, 2011

Time: 7:00 PM

Location: District 3, Nash Community College, 522 N Old Carriage Rd, Rocky Mt, NC 27804

Reason for Proposed Action:

15A NCAC 10C .0205 – Modifies the designations of specified Public Mountain Trout Waters in Alleghany, Ashe, Avery, Graham, Henderson, Jackson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Wilkes counties.

15A NCAC 10C .0305 – Modifies creel and size limits in specified areas for largemouth, smallmouth, and spotted bass; striped bass; channel, white, and blue catfish; and American shad.

15A NCAC 10C .0401 – Adds Lake Tillery to the list of reservoirs where possession of grass carp is prohibited except those legally taken with bow and arrow. Modifies creel and size limits in specified areas for channel, white, and blue catfish.

15A NCAC 10C .0404 – Allows the take of nongame fishes with crossbow and arrow.

15A NCAC 10C .0503 – Classifies eleven tributaries of the Neuse River, one tributary of the Pamlico River, and one tributary of the Northeast Cape Fear River as primary nursery areas.

15A NCAC 10E .0104 – Allows individuals who possess a valid concealed handgun permit to carry that handgun on public fishing and boating access areas. Clarifies the condition for posting size and creel regulations that differ from the general statewide regulation.

Link to agency website: <http://www.wildlife.org>

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing or via electronic mail during the comment period ending on September 30, 2011 to C. Norman Young, Jr., North Carolina Department of Justice, SSA 9001 Mail Service Center, Raleigh, North Carolina 27699-9001, E-Mail: nyoung@ncdoj.gov.

Comments may be submitted to: Christian Waters, Wildlife Resources Commission, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919)707-0223, email christian.waters@ncwildlife.org

Comment period ends: September 30, 2011

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** (\geq \$500,000)
☒ **None**

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

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

- (1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs (a)(1)(A) through (Y) are classified as Hatchery Supported Public Mountain Trout Waters. Where specific watercourses or impoundments are listed, indentation indicates that the watercourse or impoundment listed is tributary to the next preceding watercourse or impoundment listed and not so indented. This classification applies to the entire watercourse or impoundment listed except as otherwise indicated in parentheses following the listing. Other clarifying information may also be included parenthetically. The tributaries of listed watercourses or impoundments are not included in the classification unless specifically set out therein.

(A) Alleghany County:

New River (not trout water)
 Little River (Whitehead to McCann Dam) [Delayed Harvest Regulations apply to portion between Whitehead and a point 275 yards downstream of the intersection of SR 1128 and SR 1129 as marked by a sign on each bank. See

Subparagraph (a)(5) of this Rule.]

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) [Delayed Harvest Regulations apply to portion between SR 1324 bridge and North Fork New River. See Subparagraph (a)(5) of this Rule.]
 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, upper (Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park,~~ except where posted against trespass)
North Toe River-lower (SR 1164 to Mitchell Co. 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.]
 Buck Timber Creek [not Hatchery Supported trout
- water, see Subparagraph (a)(2) of this Rule.]
 Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]
 Boyde Coffey Lake
 Linville River [Land Harbor line (below dam) to Blue Ridge Parkway boundary line, except where posted against trespass]
 Milltimber Creek
- (D) Buncombe County:
 French Broad River (not trout water)
 Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)
 Dillingham Creek (Corner Rock Creek to Ivy Creek)
 Stony Creek
 Corner Rock Creek (including tributaries, except Walker Branch)
 Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)
 Swannanoa River (SR 2702 bridge near Ridgecrest to Wood Avenue Bridge, intersection of NC 81W and US 74A in Asheville, except where posted against trespass)
 Bent Creek (headwaters to N.C. Arboretum boundary line, including portions of tributaries on game lands)
 Lake Powhatan
 Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:
 Catawba River (Muddy Creek to the City of Morganton water intake dam) [Special Regulations apply. See Subparagraph (a)(7) of this Rule.]
 South Fork Catawba River (not trout water)
 Henry Fork (lower South Mountains State Park line downstream to SR 1919 at Ivy Creek)
 Jacob Fork (Shinny Creek to lower

- South Mountain
State Park
boundary) [Delayed
Harvest
Regulations apply.
See Subparagraph
(a)(5) of this Rule.]
Johns River (not trout water)
Parks Creek
(portion not on game lands
not trout water)
Carroll Creek
(game lands portion above
SR 1405 including
tributaries)
Linville River (portion
within Linville Gorge
Wilderness Area, including
tributaries, and portion
below Lake James
powerhouse from upstream
bridge on SR 1223 to Muddy
Creek)
- (F) Caldwell County:
Catawba River (not trout water)
Johns River (not trout water)
Wilson Creek (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.)
Estes Mill Creek
(not trout water)
Mulberry Creek (portion not
on game lands not trout
water)
Boone Fork [not
Hatchery Supported
trout water. See
Subparagraph (a)(2) of
this Rule.]
Boone Fork Pond
Yadkin River (Happy Valley
Ruritan Community Park to
SR 1515)
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 Wilnot) [Delayed Harvest Regulations apply to that portion between the downstream NC 107 bridge and the falls located 275 yards upstreams of US 23-441 bridge as marked by a sign on each bank. 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)
Cedar Cliff Lake
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.]
 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 upper (junction of NC 209 and NC 63 to US Forest Service road 223)
 Spring Creek-lower (NC 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Avenue) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 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.]
- (O) McDowell County:
 Catawba River – upper (Catawba Falls Campground to Old Fort Recreation Park)
Catawba River – lower (portion adjacent to Marion Greenway) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 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)
- Subparagraph (a)(5) of this Rule.]
 Spillcorn Creek (entire stream, excluding tributaries)
 Shelton Laurel Creek (confluence of Big Creek and Mill Creek to NC 208 bridge at Belva)
 Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
~~Mill Creek (headwaters to confluence with Big Creek)~~
 Puncheon Fork (Hampton Creek to Big Laurel Creek)
 Big Pine Creek (SR 1151 bridge to French Broad River)
 Ivy Creek (not trout waters)
 Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)

- 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)~~ (SR 1219 to SR 1278 bridge) [Delayed Harvest Regulations apply to that portion from NC 226 bridge to SR 1278 bridge. 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:
(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)
Araat River (NC 103 bridge to US 52 bridge) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
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~~) (confluence of North Fork French Broad River and West Fork French Broad River to the Island Ford Road (SR 1110) Access Area)
 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~~, (SR 1510 bridge at Triplett to Wilkes County line, 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
 Buckeye Creek (Buckeye Creek Reservoir dam to Grassy Gap Creek)
 Coffee Lake [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
 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)
 Elk Creek – upper (Watauga County line to lower boundary of Reynolds Blue Ridge development)
 [Delayed Harvest
- Regulations apply. See Subparagraph (a)(5) of this Rule.]
Elk Creek – lower (portion on Leatherwood Mountains development) [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]
- (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)
Shawneehaw Creek (portion adjacent to Banner Elk Greenway)
 South Harper Creek (entire stream)
 Webb Prong (entire stream)
 Wilson Creek [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (D) Buncombe County:
 Carter Creek (game land portion) [Catch and Release/Artificial Lures only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (E) Burke County:
 All waters located on South Mountain State Park, except the main stream of Jacob Fork
 Between the mouth of Shinny Creek and the lower park boundary where Delayed Harvest Regulations apply, and Henry Fork and tributaries where Catch and Release/Artificial Lures Only Regulations apply. See Subparagraphs (a)(3) and (a)(5) of this Rule.
 Nettle Branch (game land portion)
- (F) Caldwell County:
 Buffalo Creek (Watauga County line to Long Ridge Branch including tributaries on game lands)
 Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
 Rockhouse Creek (entire stream)
- (G) Cherokee County:
 Bald Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (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)
 Squally Creek (entire stream)
- (I) Haywood County
 Hemphill Creek [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of the Rule.]
 Hurricane Creek (including portions of tributaries on game lands) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (J) Jackson County:
 Buff Creek (entire stream) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 Gage Creek (entire stream)
 North Fork Scott Creek (entire stream)
 Shoal Creek (Glenville Reservoir pipeline to mouth) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 Tanasee Creek (entire stream)
 West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 Whitewater River (downstream from Silver Run Creek to South Carolina State line)
 Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (K) Madison County:
 Big Creek (headwaters to the lower game land boundary, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
 North Shoal Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]

- (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 Reynolds Blue Ridge development, including tributaries. Anglers must check in at the development security office on Triplett Road 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 Reynolds Blue Ridge development, and Powder Horn Mountain developments, including tributaries. Anglers fishing the upper section of Laurel Creek must check in at the development Reynolds Blue Ridge security office on Triplett Road prior to fishing. Anglers fishing the lower section of Laurel Creek must access the creek from the parking area on Powder Horn Mountain property adjacent to Laurel Creek on Triplett Road.) [Catch and Release/Artificial Lure Only Trout Waters Regulations apply. See subparagraph (a)(3) of this Rule.]
 Pond Creek (headwaters to Locust Ridge Road bridge, excluding the pond adjacent to Coffee Lake) [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 Reynolds Blue Ridge development, including tributaries. Anglers must check in at the development security office on Triplett Road 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 Reynolds Blue Ridge development, including tributaries. Anglers must check in at the development security office on Triplett Road prior to fishing)
- Laurel Creek (portions on Reynolds Blue Ridge development, and Powder Horn Mountain developments, including tributaries. Anglers fishing the upper section of Laurel Creek must check in at the development security office on Triplett Road prior to ~~fishing~~ fishing. Anglers fishing the lower section of Laurel Creek must access the creek from the parking area on Powder Horn Mountain property adjacent to Laurel Creek on Triplett Road.)
- Pond Creek (headwaters to Locust Ridge bridge, excluding the pond adjacent to Coffee Lake)
- (H) Wilkes County:
- Dugger Creek (portions on Reynolds Blue Ridge development, including tributaries. Anglers must check in at the development security office on Triplett Road 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) Alleghany County:
- Little River (Whitehead to a point 275 yards downstream of the intersection of SR 1128 and SR 1129 as marked by a sign on each bank)
- ~~(A)~~(B) Ashe County:
- Trout Lake
- Helton Creek (Virginia state line to New River)
- Big Horse Creek (SR 1324 bridge to North Fork New River)
- ~~(B)~~(C) Burke County:
- Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- ~~(C)~~(D) Caldwell County:
- Wilson Creek (game lands portion downstream of Lost Cove Creek to Phillips Branch)
- ~~(D)~~(E) Haywood County:
- West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
- ~~(E)~~(F) Henderson County:
- North Fork Mills River (game land portion below the Hendersonville watershed dam)
- ~~(F)~~(G) Jackson County:
- Tuckasegee River (downstream NC 107 bridge falls located 275 yards upstream of the US 23-441 bridge as marked by a sign on each bank)
- ~~(G)~~(H) Macon County:
- Nantahala River (Whiteoak Creek to the Nantahala hydropower discharge canal)
- ~~(H)~~(I) 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)

- Spring Creek (NC 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Avenue)
- ~~(H)~~(J) McDowell County:
(Catawba River (portion adjacent to Marion Greenway))
 Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch)
 Mill Creek (US70 bridge to I 40 bridge)
- ~~(H)~~(K) Mitchell County:
 Cane Creek (NC 226 bridge to ~~NC 80~~ SR 1278 bridge)
 North Toe River (US 19E bridge to NC 226 bridge)
- ~~(K)~~(L) Polk County:
 Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- ~~(L)~~(M) Surry County:
 Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
 Ararat River (NC 103 bridge to US 52 bridge)
- ~~(M)~~(N) Transylvania County:
 East Fork French Broad River (Gladly Fork to French Broad River)
 Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls)
- ~~(N)~~(O) 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)
 Coffee Lake
- ~~(O)~~(P) 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)
Elk Creek – upper (Watauga County line to lower boundary of Reynolds Blue Ridge development)
 Elk Creek – lower (portion on Leatherwood Mountains development)
- (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.
(B) Creel Limit. The daily creel limit is four trout.
(C) Size Limit. The minimum size limit is seven inches.
(D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
(E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

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

SECTION .0300 - GAME FISH

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

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

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
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
Pickrel: 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 <u>Largemouth</u>	5	14 in.	ALL YEAR
Smallmouth <u>Smallmouth</u>	(exc. (21&26))	(exc. (8, 10&21, 21&26))	(exc. (17))
and Spotted <u>Smallmouth</u>	5	12 in.	ALL YEAR
Smallmouth <u>and Spotted</u>	(exc. (21))	(exc. (8, 10&21))	
Roanoke and Rock Bass	None (exc. (24))	None (exc. (24))	ALL YEAR
White Bass	25	None	ALL YEAR

PROPOSED RULES

Sea Trout (Spotted or Speckled)	10	14 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 (excs 14,20,23&25)	None (excs. 14,20,23&25)	ALL YEAR (exc. (7))

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam and in John H. Kerr Reservoir the creel limit on striped bass and Morone hybrids is two in the aggregate and the minimum size limit is 26 inches from October 1 through May 31. From June 1 through September 30 the daily creel limit on striped bass and Morone hybrids is four in aggregate with no minimum size limit.
- (2) In Lake Rhodhiss, Lake Hickory, and Lookout Shoals Reservoir, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches. 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~~ 24 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

- (4) 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 season for taking and possessing striped bass is closed year-round. In the Pee Dee River and its tributaries from the South Carolina line upstream to Blewett Falls Dam, the season for taking and possessing striped bass and their hybrids is open year-round, the daily creel limit is three fish in aggregate and the minimum length limit is 18 inches.
- (6) In the inland and joint fishing waters [as identified in 15A NCAC 10C .0107(1)(e)] of the Roanoke River Striped Bass Management Area, which includes the Roanoke, Cashie, Middle and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and their hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season the daily creel limit for striped bass and their hybrids is two fish in aggregate, the minimum size limit is 18

- inches. No fish between 22 inches and 27 inches in length shall be retained in the daily creel limit. Only one fish larger than 27 inches may be retained in the daily creel limit.
- (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
- (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, Reedy Creek Park lakes in Mecklenburg County, Lake Rim in Cumberland County, Lake Raleigh in Wake County, ~~Randleman Reservoir in Randolph and Guilford counties,~~ Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other public fishing waters east of Interstate 95 (except Tar River Reservoir in Nash County), South Yadkin River downstream of Cooleemee Dam, Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery and Blewett Falls Lake. ~~In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches.~~ In 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.~~ In Randleman Reservoir only one largemouth bass greater than 20 inches may be possessed.
- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The minimum size limit for all black bass, with no exception, is 18 inches in Lake Thom-A-Lex in Davidson County.
- (11) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (4), the daily creel limit of
- (12) striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit. 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 Hycos, 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. In waters that are stocked and managed for catfish and located on game lands, on other Commission-owned property, or on the property of a cooperator, including waters within the Community Fishing Program, it is unlawful to take channel, white, or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate. Waters to which this creel~~

- limit applies 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 black bass between 14 and 20 inches in length shall be possessed and only one black bass greater than 20 inches may be possessed in the daily creel limit. No minimum size limit applies to black bass less than 14 inches in length in this section of New River.
- (22) In the inland waters of ~~Roanoke River and its River, Neuse River, and their~~ 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.
- (25) In inland fishing waters the minimum length for gray trout (weakfish) is 12 inches and the daily creel limit is one fish.
- (26) In Lake Cammack in Alamance County and Lake Holt in Granville County the daily creel limit for largemouth bass is 10 fish and no more than two fish greater than 14 inches may be possessed.

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

SECTION .0400 – NONGAME FISH

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

(a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbing. Nongame fishes may be taken by hook and line or grabbing 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, Lake Wylie and Lake Tillery~~, 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.
- (6) The minimum size limit for gray trout (weakfish) is 12 inches and the daily creel limit is one fish.

(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. In waters that are stocked and managed for catfish and located on game lands, on Commission-owned property, or on the property of a cooperator, including waters within the Community Fishing Program, it is unlawful to take channel, white, or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate. Waters to which this creel limit applies 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.

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

15A NCAC 10C .0404 SPECIAL DEVICE FISHING

(a) Bow and Arrow. The use of bow [as defined in 15A NCAC 10B .0116(a)] and arrow as a licensed special device is authorized for taking nongame fishes at any time from all inland fishing waters other than impounded waters located on the Sandhills Game Land and designated public mountain trout waters. Unless specifically prohibited, bow and arrow may be used in joint fishing waters. ~~It is unlawful to take fish with crossbow and arrow in any inland fishing waters.~~

(b) Nets. Where authorized, manually operated nets, including seines and bow, cast, dip, gill, drift and fyke nets may be used under the special device fishing license. No fixed gill net or other stationary net which may be authorized as a special fishing device may be more than 100 yards in length, nor shall any such net be placed within 50 yards of any other fixed net. Fixed nets must be set so that they run parallel to the nearest shoreline. No anchored or fixed gill net or drift net shall be used unless such net is marked for the protection of boat operators. A net shall be deemed so marked when there is attached to it at each end two separate yellow buoys which shall be of solid foam or other solid buoyant material no less than five inches in its smallest dimensions. The owner shall be identified on a buoy on each end either by using engraved buoys or by attaching engraved

metal or plastic tags to the buoys. Such identification shall include one of the following:

- (1) owner's N.C. motor boat registration number;
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name and initials.

It is unlawful to attach gill nets to any wire, rope, or similar device extended across any navigable watercourse.

(c) Traps. Baskets and traps, excluding collapsible crab traps, may be used under the special device fishing license. Such devices when set and left unattended shall be affixed with a card or tag furnished by the license holder and upon which his name and address shall be legibly and indelibly inscribed. No fish trap may exceed 60 inches in length or 30 inches in depth or width. No lead nets, wing nets, or other device designed to guide or herd fish may be attached to the trap or used or set within 25 feet of the trap.

(d) Spears. Manually operated gigs or under-water spear or harpoon guns may be used under the special fishing device license in the inland waters having a season for their use specified in Rule .0407 of this Section.

(e) Crab pots. It is unlawful to use crab pots in inland fishing waters, except by persons owning property adjacent to the inland fishing waters of coastal rivers and their tributaries who are permitted to set two crab pots to be attached to their property and not subject to special device license requirements.

(f) Eel pots. It is unlawful to use pots with mesh sizes smaller than one inch by one-half inch unless such pots contain an escape panel that is at least four inches square with a mesh size of one inch by one-half inch located in the outside panel of the upper chamber of rectangular pots and in the rear portion of cylindrical pots. Each pot must be marked by attaching a floating buoy which shall be of solid foam or other solid buoyant material and no less than five inches in diameter and no less than five inches in length. Buoys may be of any color except yellow. The owner shall be identified on the attached buoy by using engraved buoys or by engraved metal or plastic tags attached to the buoy. Such identification shall include one of the following:

- (1) owner's N.C. motorboat registration number;
- (2) owner's U.S. vessel documentation name; or
- (3) owner's last name and initials.

(g) Hand-crank electrofisher. For the purposes of this rule, a hand-crank electrofisher is any manually-operated device which is capable of generating a low voltage electrical current not exceeding 300 volts for the taking of catfish. Hand-crank electrofishers may be used only where authorized by local law and only in those waters specified in 15A NCAC 10C .0407.

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

SECTION .0500 – PRIMARY NURSERY AREAS

15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES

The following waters have been designated as primary nursery areas:

- (1) North River:
 - (a) Broad Creek - Camden County - Entire stream;
 - (b) Deep Creek - Currituck County - Entire stream;

- (c) Lutz Creek - Currituck County - Entire stream.
- (2) Alligator River:
 - (a) East Lake - Dare County - Inland waters portion;
 - (b) Little Alligator River - Tyrrell County - Entire stream.
- (3) Currituck Sound:
 - (a) Martin Point Creek - Dare County - Entire stream (Jean Guite Creek);
 - (b) Tull Creek and Bay - Currituck County - Tull Bay to mouth of Northwest River; Tull Creek from mouth upstream to SR 1222 bridge.
- (4) Pamlico River:
 - (a) Duck Creek - Beaufort County - Entire stream;
 - (b) Bath Creek - Beaufort County - Entire stream;
 - (c) Mixons Creek - Beaufort County - Entire stream;
 - (d) Porter Creek - Beaufort County - Entire stream;
 - (e) Tooleys Creek - Beaufort County - Entire stream;
 - (f) Jacobs Creek - Beaufort County - Entire stream;
 - (g) Jacks Creek - Beaufort County - Entire stream;
 - (h) Bond Creek - Beaufort County - Entire stream;
 - (i) Muddy Creek - Beaufort County - Entire stream;
 - (j) Strawhorn Creek - Beaufort County - Entire stream;
 - (k) South Prong Wright Creek - Beaufort County - Entire stream;
 - (l) Jordan Creek - Beaufort County - ~~Entire stream; stream;~~
 - (m) Eastham Creek - Pamlico County - Entire stream.
- (5) Neuse River:
 - (a) Slocum Creek - Craven County - Entire stream;
 - (b) Hancock Creek - Craven County - ~~Entire stream; stream;~~
 - (c) Core Creek - Craven County - Entire stream;
 - (d) Pinetree Creek - Craven County - Entire stream;
 - (e) Green's Thorofare - Craven County - Entire stream;
 - (f) Grinnel Creek - Pitt and Craven Counties - Entire stream;
 - (g) Little Swift Creek - Craven County - Entire stream;
 - (h) Turkey Quarter Creek - Craven County - Entire stream;
- (i) Village Creek - Craven County - Entire stream;
- (j) Taylor Creek - Craven County - Entire stream;
- (k) Unnamed Tributary (Kidney Creek) - Craven County - Entire stream (35° 18.014'N - 77° 17.407'W);
- (l) Unnamed Tributary - Craven County - Entire Stream (35° 15.464'N - 77° 13.681'W);
- (m) Unnamed Tributary (The Gut) - Craven County - Entire stream (35° 11.219'N - 77° 6.660'W).
- (6) New River:
 - (a) French Creek - Onslow County - Entire stream;
 - (b) New River - Onslow County - US Highway 17 bridge to NC 24/US 258 bridge.
- (7) Roanoke River: Halifax and Northampton counties - US 258 bridge to Roanoke Rapids dam.
- (8) Tar-Pamlico River: Nash, Edgecombe, Pitt and Beaufort counties - N&S railroad at Washington upstream to Rocky Mount Mills Dam.
- (9) Neuse River: Wake, Johnston, Wayne, Lenoir, Pitt and Craven counties - Pitchkettle Creek upstream to Milburnie Dam.
- (10) Cape Fear River: Chatham, Lee, Harnett, Cumberland and Bladen counties - Lock and Dam No. 1 upstream to Buckhorn Dam.
- (11) Albemarle Sound: Peter Mashoes Creek - Dare County - Entire Stream.
- (12) Croatan Sound: Spencer Creek - Dare County - Entire Stream.
- (13) White Oak River: Onslow and Jones counties - Grants Creek upstream to Gibson Bridge Road (SR 1118).
- (14) Northeast Cape Fear River: Pender County - NC 210 bridge upstream to NC 53 bridge.
 - (a) Smith Creek - New Hanover County - Entire stream.

Authority G.S. 113-132; 113-134.

SUBCHAPTER 10E - FISHING AND BOATING ACCESS AREAS

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-area~~, except that a handgun may be carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. The permission to carry a handgun does not apply to access areas on the following game lands: Bladen Lakes State Forest, Buckhorn, Butner-Falls of Neuse, Chatham, DuPont State Forest, Harris, Hyco, Jordan, Kerr Scott, Lee, Mayo, Pee Dee River north of U.S 74, Sutton Lake, Vance and that portion of R. Wayne Bailey- Caswell that is located north of U.S. 158 and east of N.C. 119. 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~~, firearms (except as allowed in Paragraph (b) of this Rule, 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)(g)~~ 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.

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

* * * * *

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0313, .0324, .0330.

Proposed Effective Date: *December 1, 2011*

Public Hearing:

Date: *August 31, 2011*

Time: *10:00 a.m.*

Location: *Wildlife Resources Commission, 1751 Varsity Drive, Raleigh, NC 27606*

Reason for Proposed Action:

15A NCAC 10F .0313 – *Hyde County has applied for an amendment establishing two no wake zones: a portion of Lake Landing Canal to mitigate water safety hazards caused by diminished sight lines and overwash caused by boat traffic in this narrow canal; portions of Central, East Main and West Main Canals on Mattamuskeet Lake to mitigate water safety hazards near the construction and activities at Mattamuskeet Lodge and to protect boaters and crabbers using the canals.*

15A NCAC 10F .0324 – *Davidson County has applied for a no wake zone around the docks at Camp Walter Johnson Salvation Army camp for the protection of campers, swimmers and boaters using the waters in that area.*

15A NCAC 10F .0330 – *Request of USCG and Fort Macon State Park to designate a no-wake zone on a winding tidal creek with a depth that fluctuates significantly with the tides and is used by smaller craft as a "cut through" between the ICW and Beaufort sea channel.*

Procedure by which a person can object to the agency on a proposed rule:

Objections may be submitted in writing or via electronic mail during the comment period ending on September 30, 2011 to C. Norman Young, Jr., North Carolina Department of Justice, SSA 9001 Mail Service Center, Raleigh, North Carolina 27699-9001, E-Mail: nyoung@ncdoj.gov.

Comments may be submitted to: *Betsy Foard, Wildlife Resources Commission, 1701 Mail Service Center, Raleigh, NC 27699-1701, phone (919)707-0013, fax (919)707-0020, email betsy.foard@ncwildlife.org*

Comment period ends: *September 30, 2011*

Link to agency website: <http://www.wildlife.org>

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**
☒ **Local** – (15A NCAC 10F .0313)
☐ **Substantial Economic Impact** (≥\$500,000)
☒ **None** – (15A NCAC 10F .0324, .0330)

Fiscal Note posted at

http://www.osbm.state.nc.us/files/pdf_files/WRC07062011.pdf

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0313 HYDE COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Hyde County:

- (1) Swan Quarter Canal near the Town of Swan Quarter beginning at its entrance at Marker #10 in Pamlico Sound and extending the entire length of the canal;
- (2) Carawan Canal near the Town of Swan Quarter beginning at its entrance located 440 yards North by Northeast from Marker #7 off Long Point in Pamlico Sound and extending the entire length of the canal;
- (3) The waters within 50 yards of all public boat launching areas providing access to Pamlico Sound;
- (4) Far Creek near the Town of Engelhard beginning at its entrance at Marker #10 in Pamlico Sound and extending the entire length of the canal;
- (5) Fodrey Canal. That portion of Fodrey Canal beginning at its entrance at the number 3 beacon and extending inland for a distance of 300 yards;
- (6) Silver Lake in Ocracoke. Harbor-wide; ~~and~~
- (7) The entire waters of the Hydeland Canal beginning at the Hydeland Canal Access Area (35.42131N, 76.20915W) and ending at the

end of SR 1122 (~~35.40873N, 76.21185W~~), (35.40873N, 76.21185W); and

(8) The waters of Lake Landing Canal beginning near the SR 1110 bridge at the intersection of Great Ditch Road and Nebraska Road, at 35.45926 N, 76.07527 W and ending at 35.45027 N, 76.06862 W; and

(9) A portion of Main Canal off of Mattamuskeet Lake in the vicinity of Mattamuskeet Lodge, beginning in East Main Canal at 35.45226, -76.17359 and extending to a point in West Main Canal at 35.45174, -76.18132, and that portion of Central Canal beginning at its intersection with Main Canal and extending northward to 35.45687, -76.1751.

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

(c) Placement and Maintenance of Markers. The Board of Commissioners of Hyde 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.

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

15A NCAC 10F .0324 DAVIDSON COUNTY

(a) Regulated Areas. This Rule applies only to those portions of High Rock Lake, Tuckertown Lake, and Badin Lake which lie within the boundaries of Davidson County.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed:

- (1) within 50 yards of any marked public boat launching ramp, bridge, dock, marina, boat storage structure, boat service area or pier while on the waters of High Rock Lake, Tuckertown Lake, and Badin Lake in Davidson County.
- (2) within 50 yards on either side of the buoy located between lots 19 and 39 Silver Hill Township in the middle of Hi-Roc Shores ~~Cove~~ Cove on High Rock Lake.
- (3) the waters of Flat Swamp Creek on High Rock Lake beginning 50 yards north of the docks at Camp Walter Johnson and extending 100 yards south of the docks as delineated by appropriate markers.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area established with the approval of the Executive Director, or his representative, on the waters of High Rock Lake, Tuckertown Lake, and Badin Lake in Davidson County.

(d) Speed Limit at Mouth of Cove. No person shall operate a vessel at greater than no-wake speed while within 50 yards on either side of the mouth of Beaver Dam Creek Cove located on Badin Lake or in Abbotts Creek Cove of High Rock Lake as delineated by appropriate markers.

(e) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter

any marked public swimming area on the waters of High Rock Lake, Tuckertown Lake, and Badin Lake in Davidson County.

(f) Placement and Maintenance of Markers. The Board of Commissioners of Davidson 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. With regard to marking the regulated areas described in Paragraph (a) of this Rule, all of the supplementary standards listed in Rule .0301(g) of this Section shall apply.

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

15A NCAC 10F .0330 CARTERET COUNTY

(a) Regulated Areas. This Rule applies to the following waters in Carteret County:

- (1) the waters of Money Island Slough beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue ~~dead-ends~~ dead-ends at the slough;
- (2) the waters of Taylor Creek located within the territorial limits of the Town of Beaufort;
- (3) the waters of Pelletier Creek beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound in Morehead City between Sugar Loaf Island and the seawall on the south side of Evans, Shepard and Shackleford Streets and bounded on the east by the State Ports Authority and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) the waters of Gallant's Channel from the ~~US~~ U.S. 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) the waters of Cedar Island Bay and Harbor from U.S. 70 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island immediately south of the B & M Railroad and ~~US~~ U.S. 70 Bridges across the Intracoastal Waterway in which Radio Island Marina and Morehead Sports Marina are located as delineated by appropriate markers;
- (8) the waters of the Newport River beginning at the north side of the Beaufort Drawbridge and ending at marker #6;
- (9) the waters of Spooners Creek within the territorial limits of the Town of Morehead City as delineated by appropriate markers;
- (10) the waters of Taylor's Creek from the eastern end of the current no wake zone eastward to Channel Marker #1A;
- (11) the waters of the Newport River at Bogue Sound including all waters surrounding the Port of Morehead City to Brandt Island as delineated by appropriate markers; ~~and~~

- (12) the waters of Morgans Creek as delineated by appropriate markers;
- (13) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W as delineated by appropriate ~~markers.~~ markers; and
- (14) the entire waters of Fishing Creek in the vicinity of Fort Macon State Park and U.S.C.G. Station Fort Macon, beginning at its western entrance at Tar Landing Bay and ending at the eastern entrance near Beaufort Inlet, as delineated by appropriate markers.

(b) Speed Limit. It is unlawful to operate a motorboat or vessel at a speed greater than no-wake speed while on the waters of the regulated areas designated in Paragraph (a) of this Rule.

(c) Placement and Maintenance of Markers. The Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (1), (3), (5), (6), (7), (8), (10), (12) and (13) of Paragraph (a) of this Rule, and the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (2) of Paragraph (a) of this Rule, and the Board of Commissioners of Morehead City, with respect to Subparagraph (4) and (9) of Paragraph (a) of this Rule, and the North Carolina ~~State~~ State Ports Authority, with respect to the regulated area ~~designed~~ designated in Subparagraph (11) of Paragraph (a) of this ~~Rule~~ Rule, and the United States Coast Guard and the North Carolina Division of Parks and Recreation, with respect to the regulated area designated in Subparagraph (14) of Paragraph (a) of this Rule are designated as suitable agencies 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.

Authority G.S. 75A-3; 75A-1.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to adopt the rules cited as 15A NCAC 10H .0814-.0815, amend the rules cited as 15A NCAC 10H .0801-0812 and repeal the rules cited as 15A NCAC 10H .0813.

Proposed Effective Date: January 1, 2012

Public Hearing:

Date: September 6, 2011

Time: 7:00 PM

Location: District 4, Bladen Community College, 7418 NC Highway 41 W, Dublin, NC

Date: September 7, 2011

Time: 7:00 PM

Location: District 5, Alamance County Courthouse, 109 South Maple Street, Graham, NC 27253-2811

Date: September 8, 2011

Time: 7:00 PM

Location: District 6, South Stanly High School, 40488 South Stanly School Road, Norwood, NC

Date: September 13, 2011

Time: 7:00 PM

Location: District 8, Municipal Auditorium, 401 College St, Morganton, NC 28655-3868

Date: September 14, 2011

Time: 7:00 PM

Location: District 9, Haywood Community College, 185 Freedlander Drive, Clyde, NC

Date: September 15, 2011

Time: 7:00 PM

Location: District 7, The Walker Center, Wilkes Community College, 1328 South Collegiate Drive, Wilkesboro, NC

Date: September 20, 2011

Time: 7:00 PM

Location: District 1, Swain Auditorium, 220 E Church St, Edenton, NC 27932

Date: September 21, 2011

Time: 7:00 PM

Location: District 2, Craven County Courthouse, 302 Broad St, New Bern, NC 28560

Date: September 22, 2011

Time: 7:00 PM

Location: District 3, Nash Community College, 522 N Old Carriage Rd, Rocky Mt, NC 27804

Date: September 28, 2011

Time: 7:00 PM

Location: WRC Headquarters, Centennial Campus, 1751 Varsity Drive, Raleigh, NC 27606

Reason for Proposed Action:

15A NCAC 10H .0801-.0812 - These falconry rules are proposed for amendment to make the North Carolina falconry program adhere to new federal standards for falconry and to enable North Carolina to fully regulate its falconry program in accordance with a directive from the U.S. Fish and Wildlife Service.

15A NCAC 10H .0813 - This falconry rule is proposed for repeal. North Carolina will no longer issue raptor propagation permits. This activity will be wholly regulated by the U.S. Fish and Wildlife Service.

15A NCAC 10H .0814-.0815 - These falconry rules are proposed for adoption to make the North Carolina falconry program adhere to new federal standards for falconry and to enable North Carolina to fully regulate its falconry program in accordance with a directive from the U.S. Fish and Wildlife Service.

Link to agency website: <http://www.wildlife.org>

Procedure by which a person can object to the agency on a proposed rule: Objections may be submitted in writing or via electronic mail during the comment period ending on September 30, 2011 to C. Norman Young, Jr., North Carolina Department of Justice, SSA, 9001 Mail Service Center, Raleigh, North Carolina 27699-9001, E-Mail: nyoung@ncdoj.gov.

Comments may be submitted to: Kate Pipkin, North Carolina Wildlife Resources Commission, 1701 Mail Service Center, Raleigh, North Carolina 27699-1721, Phone (919) 707-0065, E-Mail kathryn.pipkin@ncwildlife.org

Comment period ends: September 30, 2011

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 (≥\$500,000)
- ☒ None

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

**SUBCHAPTER 10H - REGULATED ACTIVITIES
SECTION .0800 - FALCONRY**

15A NCAC 10H .0801 DEFINITIONS

In addition to the definitions contained in G.S. 113-130, and unless the context requires otherwise, as used in 15A NCAC 10B .0216 and in this Section:

- (1) "Falconry permit" or "permit" means a ~~joint federal state falconry permit, or a separate state falconry permit or license issued by this state or by another state, tribe or territory~~ state meeting federal falconry standards and ~~listed in Paragraph (k) of 50 C.F.R. 21.29, which has been certified by the U.S. Fish and Wildlife Service.~~
- (2) "Falconry license" means the annual special purpose falconry license which is required by G.S. 113-270.3(b)(4) ~~in addition to any other applicable general purpose or special purpose~~

~~license and referenced in the rules of this Section.~~

- (3) "State" means the State of North Carolina, except when the context indicates reference to another state of the United States.
- (4) "Commission" means the North Carolina Wildlife Resources Commission.
- (5) "Executive director" means the Executive Director of the North Carolina Wildlife Resources Commission. When action is required by the commission by any provision of this Section, such action may be performed by the executive director on behalf of the commission.
- (6) "Bred in captivity" or "captive-bred" refers to raptors hatched in captivity from parents that mated or otherwise transferred gametes in captivity.
- (7) "Raptor" means a live migratory bird of the Order Falconiformes or the Order Strigiformes, other than a bald eagle (*Haliaeetus leucocephalus*).
- (8) "Wild-caught" and "wild" raptors means any free-ranging wild raptor held in captivity regardless of its length of captivity or ownership changes according to 50 CFR 21.29 (f)(1) which is hereby incorporated by reference, including subsequent amendments and editions.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

15A NCAC 10H .0802 PERMIT AND LICENSE REQUIREMENTS

~~(a) No person shall take a raptor in this state for falconry purposes without having first obtained:~~

- ~~(1) either:~~
 - ~~(A) a resident falconry permit issued by this state; or~~
 - ~~(B) a General or Master Class falconry permit as defined in Rule .0801 of this Section from another state that issues non resident falconry permits or licenses; and~~
- ~~(2) a North Carolina resident or non resident falconry license as required by G.S. 113-270.3(b)(4).~~

~~(b)(a) No person non-resident of this state shall take, possess, transport, or import a raptor for falconry purposes or practice falconry in this state without having first obtained and having in possession:~~

- ~~(1) a falconry permit as defined in Rule .0801 of this Section from this state or from a state, tribe or territory another state that issues non-resident falconry permits or licenses, which has been certified by the U.S. Fish and Wildlife Service as meeting federal falconry standards; and~~

- (2) a North Carolina ~~resident or non resident~~ falconry license as required by G.S.113-270.3(b)(4).

- ~~(3) any other general purpose or special purpose license required by the applicable laws of this state.~~

Non-resident falconers legally licensed in their home states are exempted from the requirement in Subparagraph (a)(2) of this Rule if they are traveling through North Carolina with no intention of practicing falconry while in North Carolina.

(b) No resident of this state shall take, possess, transport, or import a raptor for falconry purposes or practice falconry in this state without having first obtained and having in possession a North Carolina falconry license.

(c) In addition to criminal penalties for violation provided by federal law and state statute, licenses are subject to suspension or revocation in accordance with applicable law.

Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

15A NCAC 10H .0803 APPLICATION FOR LICENSE

(a) Any individual resident of this state who wishes to take raptors in this state or to practice falconry must submit an application for a falconry license on a form supplied by the commission and proof of a successful examination as described in Rule .0804 of this Section. Non-residents may substitute a valid falconry permit or license from their state in lieu of the proof of a successful examination and a letter, if required, provided that the state which issued the falconry permit or license has been certified by the U.S. Fish and Wildlife Service as meeting federal falconry standards permit to the commission on a form approved by the U.S. Fish and Wildlife Service.

(b) Apprentice license applications must have attached a letter from a sponsor as described in Rule .0807(b) of this Section.

(c) General license applications must have attached a letter from a General or Master falconer as described in Rule .0807(c) of this Section.

(d) Any application submitted by an individual less than 18 years of age must be co-signed by that individual's parent or legal guardian. The parent or legal guardian is legally responsible for the underage falconer's activities.

(e) A falconer with an expired license less than five years old can apply for a new license at his previous level on a form supplied by the Commission, provided the falconer can show proof he has previously met the requirements for the level of license sought. A falconer who has not had an active license within the past five years can apply for a new license on a form supplied by the Commission, but he must pass the examination described in Rule .0804 of this Section and pass facilities inspection in order to be reinstated at his previous level. He must prove he has previously met the requirements for the level of license sought.

(f) ApplicationsSuch application shall be accompanied by a fee in the amount of ten dollars (\$10.00). (\$10.00) to defray the cost of administering the examination required by Rule .0804 of this Section.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

15A NCAC 10H .0804 EXAMINATION

Before any falconry ~~license permit~~ is issued the applicant shall ~~be required to~~ answer correctly at least 80 percent of the questions on a supervised ~~examination examination~~, approved by the U.S. Fish and Wildlife Service and administered by the ~~Commission commission~~, relating to basic biology, care, and handling of raptors, literature, laws, regulations and other appropriate subject matter. Such examination shall not be required of any applicant who holds a currently valid permit from another ~~state-state~~, tribe or territory meeting the federal standards and which has been certified by the U.S. Fish and Wildlife Service, and listed in Paragraph (k) of 50 C.F.R. 21.29. The cost for taking the exam is ten dollars (\$10.00).

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0805 DURATION OF LICENSE

A falconry ~~license permit~~ or the renewal of such a ~~license permit~~ is valid when issued by the state and expires on June 30, June 30 of the second calendar year after it is issued, unless a different period is specified on the permit or the renewal.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28.

15A NCAC 10H .0806 ACQUISITION, SALE AND STATUS CHANGE

Every falconry permit shall be issued subject to the following special conditions:

- (1) ~~— A permittee may not take, transport or possess a golden eagle (Aquila chrysaetos) unless authorized in writing by the U.S. Fish and Wildlife Service.~~

~~(2)(a) Sale, transfer, purchase and barter. A permitteelicensee may trade or transfer a wild-caught raptor to another licenseepermittee if the transaction occurs entirely within the state and no money or other consideration is involved. —A permittee may trade or transfer a raptor to another permittee in an interstate transaction if the prior written approval of the Commission is obtained and no money or other consideration is involved in the transaction. —A permittee must report all acquisitions and dispositions of raptors to the U.S. Fish and Wildlife Service and to the Commission on forms supplied by the Commission. —A licenseepermittee may purchase, trade, sell or barter any lawfully possessed raptor which is bred in captivity under a federal raptor propagation permit and banded with a numbered seamless marker provided by the issuing office, U.S. Fish and Wildlife Service, provided:~~

- ~~(a)(1)~~ the person receiving such raptor is authorized to possess it under this Section, or 50 CFR 21, or the foreign country of his residence or domicile in accordance with 50 CFR 21.29(f)(15); and
- ~~(b)(2)~~ the ~~licensee permittee~~ transferring such raptor has acquired it from a person authorized to possess it as provided by ~~Sub item (2)(a) of this Rule.~~ 15A NCAC 10H .0807.

(b) Acquisition from a rehabilitator. A licensee may acquire a raptor from a permitted rehabilitator subject to the restrictions and conditions set forth in 50 CFR 21.29(e)(7)(i)-(ii) which is hereby incorporated by reference, including subsequent amendments and editions.

~~(3)(c)~~ A licensee ~~permittee~~ may not take, possess, or transport a raptor in violation of the restrictions, conditions, and requirements of the federal and state falconry regulations.

(d) Death. If a licensee dies his raptors may be transferred in accordance with 50 CFR 21.29 (f)(21), which is hereby incorporated by reference, including subsequent amendments and editions, for up to 90 days. After 90 days the Commission will determine disposition of the birds.

(e) Status change. Any status change of a raptor, including death of the raptor or the licensee, loss due to theft, acquisition, sale, transfer, intentional release and rebanding must be reported as set forth in 50 CFR 21.29(e)(6)(i)-(iii) which is hereby incorporated by reference, including subsequent amendments and editions.

(f) Disposition of dead birds. Dead birds must be disposed of in a manner described in 50 CFR 21.29(f)(13)(i)-(v) which is hereby incorporated by reference, including subsequent amendments and editions.

- ~~(4) — The falconry seasons and the daily, possession and season bag limits are contained in 15A NCAC 10B .0216.~~
- ~~(5) — A permittee must have his permit in possession at all times when raptor trapping devices or raptors are in his possession away from his residence.~~
- ~~(6) — In addition to criminal penalties for violations provided by federal and state statutes, permits are subject to suspension or revocation in accordance with applicable law.~~

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.28; 50 C.F.R. 21.29.

15A NCAC 10H .0807 LEVELS OF LICENSES

(a) Falconry licenses. Falconry licenses are issued at three levels based upon the age and experience of the falconer.

~~(a)(b) Apprentice Class. —Apprentice elasslevel~~ falconry permits licenses are subject to the following conditions, requirements and limitations set forth in 50 CFR 21.29(c)(3)(i) which is hereby incorporated by reference, including subsequent amendments and editions. The following restrictions are in addition to those set forth in federal code:

- ~~(1) — The permittee must be at least 14 years old.~~
- ~~(2)(1)~~ Regardless of the age of the permittee, the apprentice must have a sponsor who is a holder of a general or master falconry permit for the period during which the apprentice permit is held. The ~~apprentice's~~ sponsor must be a North Carolina resident or must live within 200 miles of the apprentice. A sponsor may not have more than three apprentices at any one time. A sponsor must provide written justification to the Commission when he decides to drop an apprentice. The

Commission will notify the apprentice who must obtain another sponsor and so advise the Commission within 90 days. The apprentice's raptors may be seized by the Commission and the permit revoked if after the 90 day period the apprentice fails to obtain another sponsor and/or to notify the Commission of the same. If after 180 days, the apprentice fails to obtain another sponsor and/or to notify the Commission of the same, he shall be required to reapply and be reexamined prior to the reissuance of his permit-license.

- (3) ~~The permittee may not possess more than one raptor and may not obtain more than one raptor for replacement during any period of 12 months.~~
- (4) ~~The permittee may possess only the following raptors which must be taken from the wild: an American kestrel (*Falco sparverius*), a red tailed hawk (*Buteo jamaicensis*), or a red shouldered hawk (*Buteo lineatus*).~~

(b)(c) General Class. ~~General class level falconry permits licenses are subject to the following conditions, requirements and limitations: limitations set forth in 50 CFR 21.29(c)(3)(ii) which is hereby incorporated by reference, including subsequent amendments and editions.~~

- (1) ~~The permittee must be at least 18 years old.~~
- (2) ~~The permittee shall have at least two years experience in the practice of falconry at the apprentice level or its equivalent. The permittee's apprentice sponsor must provide written certification of the falconer's skills on forms supplied by the Commission. This certification must also be approved by at least one other general or master class falconer by his signature and falconry permit number on the form.~~
- (3) ~~The permittee may not possess more than two raptors and may not obtain more than two raptors for replacement during any period of 12 months.~~
- (4) ~~The permittee may not take, transport, or possess any golden eagle or any species listed as endangered or threatened under the federal regulations, except as provided by the federal falconry regulations.~~

(e)(d) Master Class. ~~Master class level falconry permits licenses are subject to the following conditions, requirements and limitations: limitations set forth in 50 CFR 21.29(c)(3)(iii) which is hereby incorporated by reference, including subsequent amendments and editions.~~

- (1) ~~The permittee must have at least five years' experience in the practice of falconry at the general class level or its equivalent.~~
- (2) ~~The permittee may not possess more than three raptors and may not obtain more than two raptors taken from the wild for replacement during any period of 12 months.~~

- (3) ~~The permittee may not take, transport, or possess any golden eagle for falconry purposes unless authorized in writing by the U.S. Fish and Wildlife Service.~~
- (4) ~~The permittee may not take species listed as endangered in 50 CFR 17 but may transport or possess such species in accordance with 50 CFR 17.~~
- (5) ~~The permittee may not take during any period of 12 months, as part of his three bird limitation, more than one raptor listed as threatened in 50 CFR 17 and then only in accordance with 50 CFR 17.~~

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0808 FACILITIES AND EQUIPMENT:

(a) Inspection and Certification. Prior to initial issuance of a North Carolina falconry license to a resident of North Carolina, permit, the applicant's raptor housing facilities and falconry equipment shall be certified by a representative of the Commission as meeting the standards set forth in Subsections (b) and (c) of this Rule. Applicants must have indoor facilities or outdoor facilities as described in Paragraph (b) of the Rule. Applicants may have both types of facilities.

(b) Housing Facilities. The primary consideration of raptor housing, whether indoors (mews) or outdoors (weathering area), being protection of the raptor from the environment, predators, and domestic animals ~~undue disturbance~~, the applicant shall have holding facilities meeting the following standards:

- (1) ~~Standards for Apprentice Class Falconry Facilities:~~ All facilities. All facilities must conform to the standards in 50 CFR 21.29(d)(1)(ii)(A) which is hereby incorporated by reference, including subsequent amendments and editions.
- ~~(A)(2)~~ Indoor Facilities (Mews). Indoor facilities must conform to the standards in 50 CFR 21.29(d)(1)(ii)(B) which is hereby incorporated by reference, including subsequent amendments and editions. In addition to the federal standards, Minimum size of the mews shall be 8 x 8 feet with access provided by the mews must have a door that allows easy access and maintenance, and that shall close automatically or be securable inside and outside. Mews should be located away from undue disturbance and shade should be provided. There shall be at least one window, protected on the inside by vertical bars spaced narrower than the width of the raptor's body and containing a window perch. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided. The interior of the mews shall be free of splinters, protruding nails and other obstructions that could be injurious to the raptor. Any lighting fixtures shall be shielded or otherwise protected.

~~(B)(3) Outdoor Facilities (Weathering Areas). Weathering areas—Outdoor facilities must conform to the standards in 50 CFR 21.29(d)(1)(ii)(D) which is hereby incorporated by reference, including subsequent amendments and editions. In addition to the federal standards, shall be fenced and covered with netting or wire mesh, or roofed to protect the raptor from disturbance and attack by predators. Covers or roofs shall not be less than seven feet. The enclosed area shall be no less than 8 x 8 feet, but large enough to insure the raptor cannot strike the fence, cover or roof when flying from the perch. The floor of the weathering area shall be covered with a thick layer of natural or artificial material that allows allow for adequate drainage. Protection from excessive sun, wind, and inclement weather shall be provided for the raptor. The weathering area shall also include a jump box, A frame, or similar structure constructed of weatherproof material and which will offer the raptor a secure perch with adequate head and tail clearance. At least two perches shall be provided for the raptor. These shall be covered with artificial turf, hemp rope, or similar material. Secured leash shall offer access to all perches and bath container yet should not allow the raptor to come in contact with the fence and be free from entanglement. All areas accessible to the raptor shall be smooth and free of splinters and other obstructions that could be injurious to the raptor.~~

~~(2) Standards for General and Master Class Falconry Facilities:~~

~~(A) Indoor Facilities (Mews). The mews shall be of a size to allow easy access for caring for the raptors held in the facility and shall have a secure door that can be easily closed. If more than one raptor is to be kept in a mews, the raptors shall be tethered or separated by partitions and the area for each raptor shall be large enough to allow the raptor to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars spaced narrower than the width of the raptor's body and containing a window perch. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided. The interior of the mews shall be free of splinters, protruding nails and other obstructions that could be injurious to the raptor. Any lighting~~

~~fixtures shall be shielded or otherwise protected.~~

~~(B) Outdoor Facilities (Weathering Areas). Weathering areas shall be fenced and covered with netting or wire mesh, or roofed to protect the raptor's from disturbance and attack by predators, except that perches more than six and one-half feet high need not be covered or roofed. The enclosed area shall be large enough to insure the raptor(s) cannot strike the fence when flying from the perch. The floor of the weathering area shall allow for adequate drainage. Protection from excessive sun, wind, and inclement weather shall be provided for each raptor. Adequate perches shall be provided. All areas accessible to the raptor shall be smooth and free of splinters and other obstructions that could be injurious to the raptor.~~

- ~~(4) Human facilities. Raptors may be brought inside a human dwelling as needed to address health, training and safety issues. Human facilities must conform to the standards in 50 CFR 21.29(d)(1)(ii)(C) which is hereby incorporated by reference, including subsequent amendments and editions.~~
- ~~(5) A licensee may have his raptors in the open temporarily under the conditions set forth in 21.29(d)(1)(iii) which is hereby incorporated by reference, including subsequent amendments and editions.~~

~~(c) Equipment. Licensees must possess the equipment listed in 50 CFR 21.29(d)(3) which is hereby incorporated by reference, including subsequent amendments and editions. The following items shall be in the possession of the applicant before he can obtain a permit:~~

- ~~(1) At least one pair of Alymeri type (two piece) jesses constructed of pliable high-quality leather or suitable synthetic material.~~
- ~~(2) At least one flexible, weather resistant leash and one figure eight type swivel of acceptable falconry design;~~
- ~~(3) At least one suitable bath, 2" 6" deep and wider than the length of the raptor for drinking and bathing for each raptor;~~
- ~~(4) A reliable scale or balance with perch attached for weighing raptors held and capable of weighing up to five pounds and graduated to increments of not more than 1/2 ounce or 15 grams;~~
- ~~(5) Outdoor Perches. At least one portable weathering area perch of an acceptable design (block perch, ring perch, or bow perch) shall be provided for each raptor;~~

(6) ~~At least one pair of bells of falconry design and of appropriate size.~~

(d) Maintenance. All facilities and equipment shall be kept at or above the standards contained in Paragraphs (b) and (c) of this Rule at all ~~times~~ times, regardless whether the facilities are located on property owned by the licensee or owned by another.

(e) Transportation and Temporary Holding. A raptor may be transported or held in temporary facilities as described in 50 CFR 21.29(d)(4)(5) which is hereby incorporated by reference, including subsequent amendments and editions. ~~which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance for a period not exceeding 30 days.~~

(f) Care by others. A licensee may leave his raptors in the care of another person subject to the restrictions in 50 CFR 21.29(d)(6)(7) which is hereby incorporated by reference, including subsequent amendments and editions.

(g) Change of location. A licensee must inform the Commission within five days if he moves his facilities.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0809 MARKING

(a) All peregrine falcons (*Falco peregrinus*), gyrfalcons (*Falco rusticolus*), ~~and Harris hawks (*Parabuteo unicinctus*) and goshawks~~ possessed removed from the wild or acquired from a falconer or rehabilitator for falconry purposes must be marked in accordance with the following provisions: banded or microchipped as set forth in 50 CFR 21.29(c)(7)(i) which is hereby incorporated by reference, including subsequent amendments and editions.

(b) Raptors bred in captivity must be banded as set forth in 50 CFR 21.29(c)(7)(ii) which is hereby incorporated by reference, including subsequent amendments and editions.

(1) ~~Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*), except a captive bred raptor lawfully marked by a numbered, seamless band issued by the Service, must be banded with a permanent, non-reusable, numbered band issued by the Service.~~

(2) ~~Any peregrine falcon (*Falco peregrinus*), gyrfalcon (*Falco rusticolus*), or Harris hawk (*Parabuteo unicinctus*), possessed for falconry purposes must be banded at all times in accordance with these standards.~~

(c) Loss or removal of any band must be reported to the issuing office within five ~~working~~ days of the loss and must be replaced as described in 50 CFR 21.29(c)(7)(iii) which is hereby incorporated by reference, including subsequent amendments and editions. ~~with a permanent non-reusable, numbered band supplied by the Service.~~

(3) ~~After the effective date of this Section, before any unmarked raptor of these species is acquired in this state, an appropriate marker must be first acquired and attached to the raptor immediately upon acquisition. A written application is required to obtain any such marker.~~

(4) ~~Permittees must affix a non-reusable marker to any raptor which may require retrapping. Only marked raptors may be retrapped at any time.~~

(d)(5) ~~Counterfeiting or Alteration.~~ No person shall counterfeit, alter, or deface any marker required by this Rule, except that ~~permittees~~ licensees may remove the rear tabs on markers and may smooth any surface imperfections provided the integrity of the markers and numbering are not affected.

(e) No raptor removed from the wild may be marked with a seamless numbered band.

(f) A falconer may request a band exemption from the issuing office for a raptor with documented health problems or injuries caused by a band but must adhere to the restrictions set forth in 50 CFR 21.29(c)(7)(v) which is hereby incorporated by reference, including subsequent amendments and editions.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0810 TAKING RAPTORS

(a) No raptor shall be taken from the wild in this state except by an individual ~~a person~~ holding a currently valid falconry ~~license~~ permit as defined in Rule .0801 of this Section and a falconry permit from the individual's state of residence if the individual is a non-resident of North Carolina. Falconers may only take species of raptors from the wild that are authorized under their level of permit. If a falconer captures an unauthorized species of raptor or other bird, he must release that bird immediately. ~~from this state or another state that issues non-resident falconry permits or licenses and a currently valid resident or non-resident falconry license, and then only in accordance with the following instructions:~~

(b) All levels of licensees are allowed to take up to two raptors from the wild annually subject to the conditions and restrictions set forth in 50 CFR 21.29(c)(2)(i)-(viii) which is hereby incorporated by reference, including subsequent amendments and editions. Apprentices are allowed to keep only one bird at a time.

(c) Apprentices may take any species of raptor from the wild except for those species specified in 50 CFR 21.29(c)(3)(i) which is hereby incorporated by reference, including subsequent amendments and editions.

(d) Any raptor native to this state may be taken from the wild subject to the restrictions on species and license level as follows:

(1) ~~Nestlings.~~ Young birds not capable of flight (eyasses) may not be taken without a special permit issued by the commission. These permits shall be issued only Only to persons holding general or master class falconry licenses may take nestlings. Nestlings may only be taken permits and are valid during the period from May 1 through June 30. No more than two nestlingeyasses may be taken by the same licensee, permittee during this period. At least one nestling must be left in the nest or aerie.

(2) Young birds. First year (passage) birds may be taken only during the period August 1 September 4 through the last day of February.

~~December 31, except that marked raptors may be retrapped at any time.~~

- (3) Only American ~~kestrels~~ ~~kestrals~~—(Falco sparverius) and great horned owls (Bubo Virginianus) may be taken when over one year ~~old, old, except that any raptor other than an endangered or threatened species taken under a depredation or other special purpose permit issued by the U.S. Fish and Wildlife Service may be used for falconry by general and master class falconers. Only General and Master falconers may take this age class in accordance with 50 CFR 21.29(e)(3)(i) which is hereby incorporated by reference, including subsequent amendments and editions. The time period for taking is August 1 through the last day of February.~~
- (4) Federally Listed Species. Only General and Master falconers may take a federally threatened species and the falconer must following the restrictions in 50 CFR 21.29(e)(3)(ix) which is hereby incorporated by reference, including subsequent amendments and editions.
- (5) State listed species. A falconer must obtain a North Carolina endangered species permit before taking any raptors listed in 15A NCAC 10I .0103, 15A NCAC 10I .0104 or 15A NCAC 10I .0105. Furthermore, a falconer must possess a special hunt permit to take a Peregrine falcon (Falco peregrinus tundrius).

(e) Traps must be designed to prevent injury to the raptor. All traps except box-type traps must be attended and viewed from a reasonable distance by the trapper at all times when in use. Box-type traps must be checked every 24 hours. Traps must be of one of the following types:

- (1) Leg noose snare traps. Nooses on these traps must be tied in such a manner as to prevent the noose from locking when under pressure. The trapper must use a suitable drag weight based on the species being trapped.
- (2) Nets that collapse on and enclose around the raptor.
- (3) Box-type traps with automatic closing entry doors or funnels.

(f) Licensees may recapture their own birds at any time. Disposition of banded birds, captive-bred birds and birds wearing falconry equipment is as allowed in 50 CFR 21.29(e)(3)(iv)-(v) which is hereby incorporated by reference, including subsequent amendments and editions.

(g) Licensees must keep their license on their person when trapping raptors.

(h) Raptors injured due to falconry trapping efforts must be treated humanely and in accordance with 50 CFR 21.29(e)(5) which is hereby incorporated by reference, including subsequent amendments and editions.

Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29.

15A NCAC 10H .0811 OTHER RESTRICTIONS AND CONDITIONS

~~(a) A person who possesses a lawfully acquired raptor before the effective date of this Section and who fails to meet the permit requirements for falconry shall be allowed to retain such raptor, but shall not engage in the practice of falconry. Each such bird shall be identified with a marker supplied by the commission and cannot be replaced if death, loss, release, or escape occurs.~~

~~(b) A falconry permittee who possesses raptors before the effective date of this Section, in excess of the number allowed under his class of permit, shall be allowed to retain the extra raptors. All such birds shall be identified with markers supplied by the commission and no replacement or additional raptor may be obtained until the number in possession is at least one less than the total number authorized by the class of permit held by the permittee.~~

~~(c) No species of raptor which is not indigenous to this state shall be intentionally released to the wild in this state without written authorization having been first obtained from the commission. When any raptor, whether or not indigenous to this state, is intentionally released to the wild in this state, the marker shall be removed from such bird and surrendered to the commission, and a standard federal bird band shall be attached to the bird by a state or federally authorized federal bird bander.~~

~~(d) By written authorization of the permittee accompanying the transfer, a falconry permittee may commit the care of raptors to another person. If the period of such care will exceed 30 days, the permittee, within three days of the transfer, shall inform the commission in writing of the transfer and the reason therefor, where the birds are being held, who is caring for them, and approximately how many days they will remain in the care of such other person.~~

~~(a) Falconers must carry their license on their person when conducting any falconry activities away from approved facilities as described in Rule .0808 of this Section.~~

~~(b) Visitors to the United States may practice falconry under the conditions set forth in 50 CFR 21.29 (f)(14) which is hereby incorporated by reference, including subsequent amendments and editions.~~

~~(c) A licensee may take his raptors to another country to practice falconry under the conditions set forth in 50 CFR 21.29 (f)(15) which is hereby incorporated by reference, including subsequent amendments and editions.~~

~~(d) A licensee who practices falconry in the vicinity of a federally listed species must avoid take of the listed species as described in 50 CFR 21.29 (f)(17) which is hereby incorporated by reference, including subsequent amendments and editions.~~

~~(e) If a licensee's raptor takes a non-target species, the licensee may allow his bird to feed on the prey, but not take the non-target species into his possession.~~

~~(e)(f) Feathers that are molted, or those from raptors held in captivity that die, may be retained and exchanged by falconry licensees/permittees only for imping purposes, purposes or otherwise disposed of as set forth in 50 CFR 21.29(f)(12)(i)-(v) which is hereby incorporated by reference, including subsequent amendments and editions.~~

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0812 INTERSTATE TRANSPORTATION

- (a) A nonresident of this state who holds a currently valid falconry permit from another ~~state-state, tribe or territory which has been certified by the U.S. Fish and Wildlife Service which is listed in Paragraph (k) of 50 C.F.R. 21.29~~ may transport his raptors into or through this state for use in the practice of falconry, provided all laws and regulations governing the practice of falconry in this state are observed.
- (b) A resident of this state who holds a falconry ~~license permit~~ issued by the commission may transport his raptors into or through other ~~states-states, tribes and territories certified by the U.S. Fish and Wildlife Service listed in Paragraph (k) of 50 C.F.R. 21.29~~ for use in the practice of falconry, provided all laws and regulations of such states governing the possession and transportation of raptors and the practice of falconry are observed.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0813 RAPTOR PROPAGATION PERMIT

- (a) ~~Raptor propagation permits shall be obtained from the Commission and from the U.S. Fish and Wildlife Service prior to the captive breeding of any raptor.~~
- (b) ~~Permit requirements, application procedures, issuance criteria, and additional permit conditions for issuance of federal raptor propagation permits are set forth in 50 C.F.R. 21.30 which is hereby incorporated by reference and shall include any subsequent amendments.~~
- (1) ~~The state permit shall run concurrently with the federal permit and will expire on the same date as the federal permit. The state permit may be revoked or renewal may be denied for violation of the provisions of 50 C.F.R. 21.30.~~
- (2) ~~A copy of all applications and other records required under 50 C.F.R. 21.30 must be submitted to the Commission and to the U.S. Fish and Wildlife Service.~~
- (c) ~~Protected species of raptors listed as species of special concern in 15A NCAC 10I .0005, when lawfully acquired, may be propagated.~~
- (d) ~~Sale of raptors taken from the wild is prohibited.~~

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0814 RELEASE OF RAPTORS OR MOVED TO OTHER PERMIT

- (a) No raptor which is not native to the state of North Carolina and no hybrid of any kind may be released to the wild. Native, captive-bred birds may only be released with written permission from the Commission and under the conditions set forth in 50 CFR 21.29(e)(9)(ii) which is hereby incorporated by reference, including subsequent amendments and editions.
- (b) Native, wild birds may be released to the wild under the conditions set forth in 50 CFR 21.29(e)(9)(iii) which is hereby incorporated by reference, including subsequent amendments and editions.

- (c) Wild-caught birds may be transferred to another type of permit under the conditions set forth in 50 CFR 21.29(f)(5)(i)-(ii) which is hereby incorporated by reference, including subsequent amendments and editions.
- (d) Captive-bred birds may be transferred to another type of permit under the conditions set forth in 50 CFR 21.29(f)(6) which is hereby incorporated by reference, including subsequent amendments and editions.
- (e) Hacking and other training and conditioning techniques are allowed under conditions set for in 50 CFR 21.29(f)(2)(3) which is hereby incorporated by reference, including subsequent amendments and editions.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

15A NCAC 10H .0815 OTHER USES AND ALLOWED ACTIVITIES

- (a) Raptors may be used in captive propagation as allowed under the conditions set forth in 50 CFR 21.29(f)(7) which is hereby incorporated by reference, including subsequent amendments and editions.
- (b) General and master falconers may use raptors in conservation education programs as set forth in 50 CFR 21.29(f)(8)(i)-(vi) which is hereby incorporated by reference, including subsequent amendments and editions. Other educational uses of raptors are restricted to those allowed in 50 CFR 21.29(f)(9)(i)-(ii) which is hereby incorporated by reference, including subsequent amendments and editions.
- (c) General and master falconers may use raptors in abatement activities under the conditions set forth in 50 CFR 21.29(f)(11)(i)-(ii) which is hereby incorporated by reference, including subsequent amendments and editions.
- (d) General and master falconers may assist in raptor rehabilitation under the conditions set forth in 50 CFR 21.29(f)(10)(i)-(v) which is hereby incorporated by reference, including subsequent amendments and editions.
- (e) Licensees may take bird species for which there is a depredation order by means of falconry in accordance with 50 CFR 21.29(f)(20) which is hereby incorporated by reference, including subsequent amendments and editions.

Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 50 - BOARD OF EXAMINERS OF PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS

Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors intends to adopt the rules cited as 21 NCAC 50 .0517, .1105; amend the rules cited as 21 NCAC 50 .0107, .0301, .0306, .0308, .0402-.0407, .0412, .0505, .0512, .0516, .1002, .1004-.1005, .1102; and repeal the rules cited as 21 NCAC 50 .0303, .1401-.1405, .1407-.1410.

Proposed Effective Date:

December 31, 2011

December 31, 2012 for Rules 21 NCAC 50 .1401-.1405, .1407-.1410

Public Hearing:

Date: *September 12, 2001*

Time: *3:00 p.m.*

Location: *Hyatt Place Raleigh-North, 1105 Navaho Drive, Raleigh, NC 27609*

Reason for Proposed Action: *The Board is giving notice of the possible adoption of rules creating a series of technician licenses, the purpose being possible reduction in the number of contractor licenses required for contracting firms and a corresponding reduction in cost. Industry groups and licensees have requested the Board to consider allowing, but not requiring, contractors to utilize licensed technicians in lieu of employment of additional contractor licensees. The technician would have demonstrated skills in installation but not in system design or contracts estimates and bidding, additional skills required of a contractor licensee.*

The Board is further considering whether gas dealers might utilize technicians as a means of installing gas appliances. The Board is giving notice of possible elimination of the continuing education program, and of the desire of the Board to hear from all industry segments. If the current system changes, such change would not occur before 2013.

The Board is also considering rules which express conduct standards or practices which will be considered as evidence of incompetence or misconduct. Among these are compliance with permit and inspection requirements, and testing of residential multi-purpose fire suppression systems. A number of other changes and rule repeals are being considered in response to a request by the Governor for review of rules and removal of any found obsolete or unnecessary.

Link to agency website: <http://nclicensing.org>

Procedure by which a person can object to the agency on a proposed rule: *Persons may submit comments on and objections to the proposed rules at the public hearing or by mail to Dale L. Dawson, 1109 Dresser Court, Raleigh, NC 27609; by fax at (919) 875-3616; or by email to ncdawson@aol.com. The deadline for receiving comments and objections to the Board is 5:00 p.m. September 30, 2011.*

Comments may be submitted to: *Dale L. Dawson, 1109 Dresser Court, Raleigh, NC 27609; phone (919) 875-3612*

Comment period ends: *September 30, 2011*

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 (\geq \$500,000)**
- ☒ **None**

SECTION .0100 - ORGANIZATION

21 NCAC 50 .0107 BOARD COMMITTEES

(a) The chair of the Board shall appoint regular committees for oversight and ~~to implement implementation prescribed phases of the Board's Board~~ functions, and may appoint special committees for ~~to undertake specific tasks assignments of the Board as necessary.~~

(b) The chair of the Board shall appoint the chair and members of the committees. ~~designate the membership of the committees and may designate one member as committee chair.~~

(c) Members of committees serve at the pleasure of the chair of the Board.

Authority G.S. 87-18.

SECTION .0300 – EXAMINATIONS

21 NCAC 50 .0301 QUALIFICATIONS DETERMINED BY EXAMINATION

(a) In order to determine the qualifications of an applicant, the Board shall provide an examination in writing or by computer in the following categories:

- Plumbing Contracting, Class I
- Plumbing Contracting, Class II
- Heating, Group No. 1 - Contracting, Class I
- Heating, Group No. 1 - Contracting, Class II
- Heating, Group No. 2 - Contracting, Class I
- Heating, Group No. 3 - Contracting, Class I
- Heating, Group No. 3 - Contracting, Class II
- Fuel Piping Contractor
- Fire Sprinkler Inspection Technician
- Fire Sprinkler Installation Contractor
- Fire Sprinkler Inspection Contractor
- ~~Fire Sprinkler Maintenance Technician~~
- Residential Fire Sprinkler Installation Contractor
- Plumbing Technician
- Heating Group No. 1 Technician
- Heating Group No. 2 Technician
- Heating Group No. 3 Technician
- Fuel Piping Technician

(b) Each person being examined by the Board for a contractor license other than a Fire Sprinkler Installation or Inspection

Contractor license shall be required to read, interpret and provide answers to both the business and law part and the technical part of the examination required by G.S. 87-21(b).

(c) Applicants for licensure as a fire sprinkler installation contractor, must submit evidence of current certification by the National Institute for Certification and Engineering Technology (NICET) for ~~Fire Protection Engineering Technician, Level III, subfield of Automatic Sprinkler~~ Water-based Fire Protection System Layout as the prerequisite for licensure. Current certification by NICET is in lieu of separate technical examination conducted by the Board. Applicants for licensure as a fire sprinkler installation ~~contractor~~, contractor must take and pass the business and law part of the exam administered by the Board.

(d) Applicants for licensure in the Fire Sprinkler Inspection Technician classification must either pass the technical examination offered by the Board or submit evidence of Level II Certification in "Inspection and Testing of Water-based ~~Protection~~ Systems" by NICET in lieu of examination.

(e) Applicants for the Fire Sprinkler Inspection Contractor classification must submit evidence of Level III certification in "Inspection and Testing of Water-based Fire ~~Protection~~ Systems" by NICET in lieu of technical examination. Contractors who obtain license by NICET certification must maintain such certification thereafter as a condition of license renewal. Applicants for licensure as a fire sprinkler inspection contractor must take and pass the business and law part of the examination administered by the Board in addition to demonstrating NICET certification as set out herein.

(f) Applicants for a license in the Limited Fire Sprinkler Maintenance Technician classification must obtain a license based on maintenance experience, education and job classification set forth in Rule .0306.

(g) Applicants for a license as a Residential Fire Sprinkler Installation Contractor must obtain a license based on experience set forth in Rule .0306 and must take and pass the technical part of the Residential Fire Sprinkler Installation Contractor examination.

(h) Applicants for license as a Plumbing, Heating or Fuel Piping Technician must obtain a license based on experience set forth in Rule .0306 and must take and pass the Class I technical and Board laws and rules examination related to the category for which a technician license is sought.

(i) Applicants who present a current plumbing or heating journeyman certificate from an Authority Having Jurisdiction in North Carolina will not be required to take the technical portion of the exam if application is made on or before December 31, 2012.

(j) Applicants who hold active Plumbing, Heating or Fuel Piping Technician license may obtain the Plumbing, Heating or Fuel Piping Contractor license in the same category by meeting the experience requirement listed in 21 NCAC 50 .0306(a) for the specific contractor license sought and passage of the business portion of the examination only.

Authority G.S. 87-18; 87-21(a); 87-21(b).

21 NCAC 50 .0303 VISITORS

~~Visitors or licensees may observe conduct of any examination, but shall not be provided with the substance of any examination.~~
Authority G.S. 87-18; 87-20; 87-21(a); 87-21(b).

21 NCAC 50 .0306 APPLICATIONS: ISSUANCE OF LICENSE

(a) All applicants for licensure or examination shall file an application in the Board office on a form provided by the Board.

(b) Applicants for plumbing or heating examination shall present evidence at the time of application to establish two years of full-time experience in the installation, maintenance, service or repair of plumbing or heating systems related to the category for which a license is sought, whether or not a license was required for the work performed. Applicants for fuel piping examination shall present evidence at the time of application to establish one year of experience in the installation, maintenance, service or repair of fuel piping, whether or not a license was required for the work performed. Up to one-half the experience may be in academic or technical training related to the field of endeavor for which examination is requested. The Board will prorate part-time work of less than 40 hours per week or part-time academic work of less than 15 semester or quarter hours.

(c) The Board shall issue a license certificate bearing the license number assigned to the qualifying individual.

(d) Fire Sprinkler Installation Contractors ~~in the unlimited classification~~ shall meet experience requirements in accordance with NICET examination criteria.

(e) Applicants for examination or licensure in the Limited Fire Sprinkler Inspection Technician classification shall submit evidence adequate to establish that the applicant has either:

- (1) 4000 hours experience involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA-25, as a full-time employee of a Fire Sprinkler Inspection Contractor or fire insurance underwriting organization; or
- (2) 4000 hours experience involved in inspection and testing of previously installed fire sprinkler systems, consistent with NFPA-25 as a full time employee of a hospital, manufacturing, government or university facility and under direct supervision of a Fire Sprinkler Inspection Contractor or a Fire Sprinkler Inspection Technician; or
- (3) 4000 hours experience involved in installation of fire sprinkler systems as a full-time employee of a Fire Sprinkler Installation Contractor; or
- (4) a combination of 4000 hours experience in any of the categories listed in this Paragraph.

(f) Applicants for licensure in the Fire Sprinkler Inspection Contractor classification shall meet experience requirements in accordance with NICET certification criteria.

(g) Applicants for initial licensure in the Fire Sprinkler Maintenance Technician classification must submit evidence of 4000 hours experience at the place for which license is sought as a full-time maintenance employee in facility maintenance with exposure to periodic maintenance of fire protection systems as

described in 21 NCAC 50. 0515 of this Chapter or 2000 hours of such experience, together with six hours classroom instruction in courses approved by the Board consisting entirely of training in fire system maintenance, repair and restoration to service. Applicants who have held Fire Sprinkler Maintenance Technician license previously at a different facility are not required to demonstrate experience in addition to the experience at the time of initial licensure but shall submit a new application for the new location at which they wish to be licensed.

(h) Applicants for licensure in the Residential Fire Sprinkler Installation Contractor classification must hold an active Plumbing Class I or Class II Contractor license issued by this Board for a minimum of three years and must document attendance at a 16 hour course approved by the Board pursuant to these Rules covering NFPA 13D Multipurpose Residential Plumbing and Residential Fire Sprinkler Systems. Residential Fire sprinkler Installation Contractors must maintain Plumbing Contractor license as a condition of renewal of the Residential Fire sprinkler Installation Contractor license.

(i) Applicants for license as a plumbing or heating technician shall present evidence adequate to establish 3,000 hours of full-time experience in the installation, maintenance, service or repair of plumbing or heating systems related to the category for which a technician license is sought, whether or not a license was required for the work performed. Applicants for license as a fuel piping technician shall present evidence adequate to establish 1,500 hours of experience in the installation, maintenance, service or repair of fuel piping, whether or not a license was required for the work performed. Up to one-half the experience may be in academic or technical training related to the field of endeavor for which examination is requested.

Authority G.S. 87-18; 87-21(b).

21 NCAC 50 .0308 REVIEW OF EXAMINATION

(a) Any person who fails to pass an examination may, on written request, review his or her examination at a time and place determined by the Board.

~~(b) In the event an applicant fails an examination for a particular qualification three times, the applicant must present evidence of six months additional practical experience involving both design and installation of systems of the type for which a license is sought together with at least 24 contact hours of additional classroom education approved by the Board.~~

Authority G.S. 87-18; 87-21(b); 87-25; 93B-8(c).

SECTION .0400 - GENERAL PROCEDURES

21 NCAC 50 .0402 PERMITS

(a) A licensed contractor shall ensure that a permit is obtained from the local Code Enforcement official before commencing any work for which a license is required by the Board except as set out in Paragraph (c) of this Rule. The contractor shall also ensure that a request for final inspection is made by himself, the general contractor or the owner within 10 days of substantial completion of the work for which a license is required, absent agreement with the owner and the local Code Enforcement official. Absent agreement with the local Code Enforcement

official the licensee is not relieved by the Board of responsibility to arrange inspection until a certificate of compliance or the equivalent is obtained from the local code enforcement official or the licensee has clear and convincing evidence of his effort to obtain same.

(b) A licensed contractor shall not allow a permit to be obtained or his license number to appear upon a permit except for work which he or his employees perform, over which he or a properly licensed technician will provide general supervision until the completion of the work for which he holds an executed contract with the licensed general contractor or property owner and for which he receives ~~all the contractual payment payments.~~

(c) A plumbing permit is not required for replacement of a water heater in a one or two-family dwelling if there is no change in fuel, energy source, location, capacity, routing or sizing of venting or piping and if the energy use rate or thermal input is not ~~increased increased,~~ and if ~~the a~~ licensee of the firm personally examines the work at ~~completion completion,~~ and if the licensee ensures that leak test has been performed on any fuel ~~piping,~~ and if the replacement is installed in accordance with the current edition of the State Building Code.

(d) The failure of a licensee to comply with the permit and inspection obligations outlined in this Rule is considered by the Board as evidence of incompetence or misconduct in the use of license from the Board.

Authority G.S. 87-18; 87-21; 87-26.

21 NCAC 50 .0403 USE OF LICENSE

(a) A licensed contractor or technician shall not permit the use of his license by any other person.

(b) A contractor licensed by the Board shall not bid or contract installations requiring license of a type or classification issued by this Board which the licensee does not have except as a part of a documented joint venture with a licensee holding the necessary qualification. Bidding without qualification and with an intention to subcontract the unauthorized work does not satisfy this requirement; provided however that, in a contract administered pursuant to G.S. 143-129 and in which more than one classification administered by this Board has been combined in the separate contract specifications, a licensee of this Board holding either of such qualifications may bid both of such classifications of work administered by this Board in addition to the classification for which he holds license if the successful bidder obtains an executed written contract with a qualified licensee prior to the award of the contract by the awarding authority.

(c) A technician licensed by this Board shall not contract work based on the Technician license.

Authority G.S. 87-18; 87-23; 87-26.

21 NCAC 50 .0404 ACTIVE EMPLOYMENT

(a) In each business location, branch or facility of any kind from which work requiring a license pursuant to G.S. 87, Article 2 is:

- (1) solicited or proposed; or
- (2) from which contracts for such work are negotiated or entered into; or

- (3) from which requests for such work are received, accepted, or dispatched; or
- (4) from which such work is carried out;

there shall be on duty the lesser of 1500 hours annually, or all hours during which the activities described herein are carried out, at least one individual who holds contractor license in the classification required for the work being proposed or performed, whose license is listed in the name of the particular firm or business at that location, and who is engaged in the work of the firm at the business location or at firm job sites and who has the responsibility to make, modify, terminate and set the terms of contracts, and to exercise general supervision, as defined in Rule .0505 of this Chapter, of all work falling within his license qualification. Evidence of compliance shall be required as a condition of renewal or retention of license, and falsification shall constitute fraud in obtaining license. The standards set forth in Rule 21 NCAC 50 .0512 shall be applied.

(b) If a licensee uses his or her license to qualify a firm and that licensee holds employment elsewhere, no work that requires a license can be performed by the firm based on the qualification of that licensee during the hours the licensee is committed or active in employment elsewhere.

(c) A field or project office used solely to carry out an existing contract or contracts entered into by the main license office and from which none of the other activities in Rule .0404(a) are conducted shall not be deemed a separate place of business or branch requiring compliance with Rule .0404(a).

(d) A Class A Gas Dealer as defined in G.S. 119-56 or provider of natural gas holding certificate of public convenience and necessity under Chapter 62 of the General Statutes shall not contract or carry out fuel piping installations which require a license from this Board unless such Dealer or natural gas provider employs in the particular office or branch a full-time bona-fide employee, who holds a Fuel Piping Technician license or Fuel Piping Contractor license and whose license is listed in the name of the Dealer or natural gas provider at the specific branch office consistent with Paragraph (a) of this Rule.

Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-26.

21 NCAC 50 .0405 MULTIPLE LICENSES

(a) In order to maintain the identity of firms and allow effective supervision, each licensed contractor or technician shall qualify only the business location where he is primarily located.

(b) A licensee may be listed on only one contractor license at any given time, whether the license is issued in the name of the individual or in the name of a firm; provided, however, that the fire sprinkler maintenance technician qualification may be listed separately in the name of the employer to which restricted.

~~(c) A licensee other than the holder of a Fire Sprinkler Maintenance Technician license, may, The holder of~~ qualification as a contractor may, upon deletion of his name and qualifications from a firm license, reinstate his personal license, either as an individual or in the name of some other corporation, partnership, or business that has a trade name, upon compliance with G.S. 87-26.

(d) A technician licensee, other than the holder of a Fire Sprinkler Maintenance Technician license, may, upon deletion of his name and qualification from a firm license, move his

qualification to another licensed corporation, partnership or business which has a trade name, upon compliance with G.S. 87-26.

Authority G.S. 87-18; 87-21(a)(5); 87-21(a)(6); 87-26.

21 NCAC 50 .0406 RESPONSIBILITY OF LICENSED PERSON EMPLOYED BY FIRM

(a) The licensed ~~person, contractor,~~ whether individually or for a corporation, partnership or business with a trade name, is responsible for all proposals, bids, contracts, supervision to the extent of his ~~qualifications~~ qualifications, compliance with all applicable codes and standards, and assurance that permits and inspections are obtained.

(b) A contract, and the responsibility imposed on a licensed person to supervise work performed under a contract, may be assumed by another ~~licensee~~ licensed contractor upon written notice to and approval by the property owner and local inspection department.

(c) The contractor license number and qualification of the firm shall be displayed on firm contracts, proposals, permit applications, and telephone yellow page advertising.

Authority G.S. 87-18; 87-26.

21 NCAC 50 .0407 CORPORATIONS, PARTNERSHIPS AND TRADE NAMES

(a) Licensees are required to list their license with the Board in the name in which they conduct business.

~~(a)(b)~~ A contractor license may be issued or renewed in the name of a corporation, partnership or business with a trade name upon compliance with the provisions of G.S. 87-26, verified by the execution of forms furnished by the Board.

~~(b)(c)~~ Additional licensees may be added to licenses issued in the above manner upon verifications of compliance with the provisions of G.S. 87-26. In the event a licensee terminates his association with a corporation, partnership, or business with a trade name, both the firm and the licensee are obligated to notify the Board within 30 days.

~~(c)(d)~~ A person who has a license which has been expired less than three years may be added to an active license issued in the name of a corporation, partnership or business with a trade name, upon written request, completion of forms provided by the Board and payment of the fee set forth in Rule .1102 of this Chapter.

~~(d)(e)~~ The license number assigned to a corporation, partnership, or business with a trade name shall be that of the first licensee listed on the license.

~~(e)(f)~~ A corporation, partnership or business with a trade name which is issued a license is subject to the provisions of G.S. 87, Article 2 and to these Rules.

Authority G.S. 87-18; 87-22; 87-26.

21 NCAC 50 .0412 GUIDELINES ON DISCIPLINARY ACTIONS

(a) The provisions of G.S. 87, Article 2, the rules of the Board and the matters referenced therein are the guidelines by which

the conduct of an entity subject to the authority of the Board are evaluated.

(b) The Board may suspend a license or impose probation provisions for violations of 21 NCAC 50 .0402, 21 NCAC 50 .0403, 21 NCAC 50 .0404 and 21 NCAC 50 .0405. Repeated violations may result in revocation.

(c) The Board may suspend a ~~contractor's~~ license or impose probationary terms when a licensee fails to comply with the supervision requirements of 21 NCAC 50 .0404, 21 NCAC 50 .0406 or 21 NCAC 50 .0505. Multiple violations within the same proceeding may result in revocation.

(d) The Board may suspend or revoke a license where it is found that the licensee has failed to comply with the minimum standards of competence as set forth in 21 NCAC 50 .0505(b). The Board may condition the subsequent reinstatement of license upon passing of the Board's examination or completion of specified educational courses. The Board may impose additional conditions of reinstatement.

(e) The Board may suspend or revoke the license of a contractor where it is found that the contractor abandoned a job after obtaining funds from the owner.

(f) As a part of these provisions, the Board may revoke the license of any licensee where it is found that the ~~contractor~~ licensee through a violation of G.S. 87, Article 2 has increased the risk of exposure to carbon monoxide or other harmful vapors, fire, or damage resulting there from, the release of sewage, methane gas, or contamination of the potable water supply.

(g) The foregoing provisions are illustrative guidelines of sanctions imposed by the Board and are not intended to limit the authority of the Board or the variety of facts for which action may be required in a particular situation.

(h) Any of the foregoing actions may result in a probation period or combination of suspension and probation. Condition of probation may include remediation, education, reexamination, record-keeping or other provisions likely to deter future violation or remedy perceived shortcomings.

Authority G.S. 87-18; 87-23.

SECTION .0500 - POLICY STATEMENTS AND INTERPRETATIVE RULES

21 NCAC 50 .0505 GENERAL SUPERVISION AND STANDARD OF COMPETENCE

(a) The general supervision required by G.S. 87-26 is that degree of supervision which is necessary and sufficient to ensure that the contract is performed in a workmanlike manner and with the requisite skill and that the installation is made properly, safely and in accordance with applicable codes and rules. General supervision requires that review of the work done pursuant to the license be performed by a licensee of the firm while the work is in progress. If a Plumbing, Heating or Fuel Piping Contractor licensed by this Board employs a properly licensed Plumbing, Heating or Fuel Piping Technician, whose Technician license is listed under the name of that Licensed contractor, then the licensed technician can review and supervise work in lieu of the licensed contractor as a means to assure that the contract is performed in a workmanlike manner and with the

requisite skill and that the installation is made properly, safely and in accordance with applicable codes and rules.

(b) The provisions of the North Carolina Building Code, including the provisions of codes and standards incorporated by reference, and adopted by the Building Code Council of North Carolina are the minimum standard of competence applicable to contractors licensed by the Board. Licensees shall design and install systems which meet or exceed the minimum standards of the North Carolina State Building Code, manufacturer's specifications and installation instructions and standards prevailing in the industry.

(c) Work performed under Rule .0513, Rule .0514, and Rule .0515 shall be performed by the licensed technician pursuant to the license held by that person.

(d) Every newly installed residential heating system, air conditioning system or both shall be designed and installed to maintain a maximum temperature differential of four degrees Fahrenheit room-to-room and floor-to-floor. On multilevel structures, contractors are required to either provide a separate HVAC system for each floor or to install automatically controlled zoning equipment for each level with individual thermostats on each level to control the temperature for that level. The seasonal adjustment needed to maintain the four degrees Fahrenheit room-to-room and floor-to-floor maximum temperature differential shall not be accomplished through the use of manual dampers.

(e) All licensed HVAC contractors or licensed technicians are required to perform a thorough room-by-room load calculation for all ~~new~~ newly installed residential structures prior to installing heating systems, air conditioning systems, or both, prior to the installation, which calculations shall be specific to the location and orientation where the HVAC system or equipment is to be installed. A written record of the system and equipment sizing information shall be provided to the homeowner, owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years. Load calculations are required to be performed by licensee who holds the appropriate license from this Board or by a North Carolina Licensed Professional Engineer.

(f) When either a furnace, ~~condenser~~ condenser, package unit or air handler in an existing residential heating or air conditioning system is replaced, the licensed HVAC contractor or licensed technician is required to perform a minimum of a whole house block load calculation. When a furnace, ~~condenser~~ condenser, package unit or air handler in a residential heating or air conditioning system is replaced, it is the responsibility of the licensee to ensure that all systems and equipment are properly sized. The licensee may utilize industry standards, reference materials, evaluation of the structure, and load calculations. A written record of the system and equipment sizing information shall be provided to the homeowner, owner or general contractor upon request and a copy shall be maintained in the job file of the licensee for a minimum of six years. If a load calculation was not performed or if a load calculation was performed and it is later determined by the Board that the unit installed was undersized or oversized, the installation will be considered as evidence of incompetence. Load calculations are required to be performed by licensee who holds the appropriate license from

this Board or by a North Carolina Licensed Professional Engineer.

(g) A licensed plumbing contractor involved in installation or replacement of a well pump or pumping equipment which includes installation or reinstallation of a well seal is required to be present on site until the well is disinfected and sealed.

(h) At the time of completion of initial installation and upon any subsequent alteration, licensees who install multipurpose residential fire sprinkler systems shall assure that the two most remote fire sprinkler heads, as identified by the design professional who designed the system, undergo a water flow test at the water supply delivery volume and delivery pressure and assure that the system flows the required amount of water through each of the tested fire sprinkler heads. Failure to carry out the flow test or failure of a system to provide the required volume or water when placed in operation due to fire or otherwise shall be considered evidence of misconduct and incompetence on the part of the installing licensee.

Authority G.S. 87-18; 87-23; 87-26.

21 NCAC 50 .0512 EMPLOYEES EXEMPTED FROM LICENSURE

(a) An unlicensed person who is directly and regularly employed in the ordinary course of business by a contractor licensed pursuant to G.S. 87, Article 2 is not required to have a license and shall not be subject to an action for injunctive relief brought by the Board. Factors establishing whether the individual is directly and regularly employed in the ordinary course of business of such contractor include, the following:

- (1) whether the individual is on the licensed contractor's payroll;
- (2) whether taxes are withheld from the payment to the individual and the contractor performs such other acts as are lawfully required of an employer;
- (3) whether the licensed contractor exercises control and supervision over the method, manner and details of the individual's work; and
- (4) whether the licensed contractor, and not the unlicensed person, is and remains obligated to the property owner or general contractor for the work.

(b) Persons acting as independent contractors, consultants or subcontractors, or paid as such, are not bona fide employees; ~~provided that licensed contractors may utilize employees shared with a labor supplier under a written contract which may allocate payroll or tax withholding obligations to the labor supplier while reserving control, supervision and obligation to the owner or general contractor to the licensee of the Board, and provided the licensee upon whose qualifications the license of the employing contractor is based remains a person meeting all four of the indicia of employment set out in Paragraph (a) of this Rule and is not contracted by or acting as a labor supplier.~~

(c) Licensed contractors may utilize employees shared with a labor supplier under a written contract which may allocate payroll or tax withholding obligations to the labor supplier while reserving control, supervision and obligation to the owner or

general contractor to the licensee of the Board, and provided the licensee upon whose qualifications the license of the employing contractor is based remains a person meeting all four of the indicia of employment set out in Paragraph (a) of this Rule and is not contracted by or acting as a labor supplier.

Authority G.S. 87-18; 87-25.

21 NCAC 50 .0516 RESIDENTIAL FIRE SPRINKLER INSTALLATION LICENSE

License in the Residential Fire Sprinkler Installation Contractor classification is required of persons who engage in the business of contracting to perform or performing the installation of multipurpose ~~single one or two~~ family residential water-based plumbing and fire sprinkler piping systems consistent with NFPA-13D. All multipurpose ~~single one or two~~ family residential plumbing and fire sprinkler piping systems are required to be hydraulically calculated and designed by a licensed North Carolina Fire Sprinkler Installation Contractor or a North Carolina Licensed Professional Engineer for each specific installation. Residential Fire Sprinkler Installation Contractors are required to perform each installation consistent with the calculation and design. Any single purpose ~~single family~~ residential water-based fire sprinkler system shall be installed by a licensed Fire Sprinkler Installation Contractor.

Authority G.S. 87-21.

21 NCAC 50 .0517 PLUMBING, HEATING AND FUEL PIPING TECHNICIAN LICENSE

(a) The holder of license as a Heating, Group 1 Technician shall be a full-time employee of a Heating, Group No. 1 Contractor.
(b) The holder of license as a Heating, Group 2 Technician shall be a full-time employee of a Heating, Group No. 2 Contractor.
(c) The holder of license as a Heating, Group 3 Technician shall be a full-time employee of a Heating, Group No. 3 Contractor.
(d) The holder of license as a Plumbing Technician shall be a full-time employee of a Plumbing Contractor.
(e) The holder of license as a Fuel Piping Technician shall be a full-time employee of a Fuel Piping Contractor licensee or a Class A Gas Dealer pursuant to 21 NCAC 50 .0404(c).

Authority G.S. 87-18; 87-21(b).

SECTION .1000 – CONTESTED CASES

21 NCAC 50 .1002 REQUEST FOR HEARING

(a) Any time an aggrieved party individual believes that individual's rights, duties, or privileges have been affected by the Board's administrative action, but has not received notice of a right to an administrative hearing, that individual may file a formal request for a hearing.

(b) Before an individual may file a request, that individual is encouraged to exhaust all reasonable efforts to resolve the issue informally with the Board.

(c) Subsequent to such informal action, if still dissatisfied, the individual should submit a request to the Board's office, with the request bearing the notation: REQUEST FOR

ADMINISTRATIVE HEARING. The request should contain the following information:

- (1) name and address of the petitioner,
- (2) a concise statement of the action taken by the Board which is challenged,
- (3) a concise statement of the way in which the petitioner has been aggrieved, and
- (4) a clear and specific statement of request for a hearing.

(d) The request will be acknowledged promptly and, if deemed appropriate by the Board in accordance with 21 NCAC 50 Rule .1003, a hearing will be scheduled.

Authority G.S. 87-18; 150B-22; 150B-38.

21 NCAC 50 .1004 NOTICE OF HEARING

(a) Hearings of the Board are commenced and conducted consistent with G.S. 150B-3A.

(b) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license. Upon service of the order, the licensee to whom the order is directed shall immediately cease the practice of plumbing, heating or fire sprinkler contracting in North Carolina. The Board shall promptly give notice of hearing pursuant to Article 3A, G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

Authority G.S. 87-18; 150B-3(c); 150B-38.

21 NCAC 50 .1005 WHO SHALL HEAR CONTESTED CASES

All administrative hearings will be conducted by the Board, a panel consisting of a majority of the members of the Board, ~~or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).~~ Board.

Authority G.S. 87-18; 150B-11; 150B-38; 150B-40.

SECTION .1100 - FEES

21 NCAC 50 .1102 LICENSE FEES

(a) Except as set out in this Rule, the annual license fee for plumbing, heating and fuel piping contractor licenses by this Board is one-hundred thirty dollars (\$130.00).

(b) The annual license fee for a licensed individual who holds qualifications from the Code Officials Qualification Board, is employed full-time as a local government plumbing, heating or mechanical inspector and who is not actively employed or engaged in business requiring license from this Board is twenty-five dollars (\$25.00).

(c) The initial application fee for license without examination conducted by the Board is thirty dollars (\$30.00).

(d) The annual license fee for a contractor or fire sprinkler inspection technician whose qualifications are listed as the second or subsequent individual on the license of a corporation, partnership, or business with a trade name under Paragraphs (a) or (c) of this Rule is thirty dollars (\$30.00).

(e) The annual license fee for fire sprinkler installation contractor and fire sprinkler inspection contractor licenses by this Board is one hundred thirty dollars (\$130.00).

(f) The annual license fee for Fire Sprinkler Maintenance Technician is one hundred thirty dollars (\$130.00).

(g) The annual license fee for Residential Fire Sprinkler Installation Contractor is one hundred thirty dollars (\$130.00).

(h) The annual license fee for Fire Sprinkler Inspection Technician is one hundred thirty dollars (\$130.00).

(i) The annual license fee for all Fuel Piping Technician license listed with a Class A Gas Dealer is one hundred thirty dollars (\$130.00).

(j) The annual license fee for Plumbing, Heating or Fuel Piping Technician licensees listed under a licensed Plumbing, Heating or Fuel Piping Contractor is sixty-five dollars (\$65.00).

Authority G.S. 87-18; 87-21; 87-22.

21 NCAC 50 .1105 ANNUAL REPORTS

The Board files all reports required by G.S. 93B-2 as well as the audit required by G.S. 93B-4. In case of unforeseen circumstances resulting in untimely filing of a report required by G.S. 93B-2, the Board will hold in escrow any fees collected between the filing deadline and the filing date. Issuance of licenses, renewals and application processing will continue during any interval created by the untimely filing of a report required by G.S. 93B-2.

Authority G.S. 93B-2.

SECTION .1400 – CONTINUING EDUCATION

21 NCAC 50 .1401 CONTINUING EDUCATION REQUIREMENTS

~~(a) Beginning with renewals of license for years beginning on or after January 1, 2003, each holder of a Plumbing, Heating or Fuel Piping license, must have completed six hours of approved continuing education for each calendar year as a condition of license renewal.~~

~~(b) Beginning with renewals of license for years beginning on or after January 1, 2010, as part of and not in addition to the requirements set out in Paragraph (a) of this Rule, each applicant for license renewal, other than fire sprinkler licensees, must complete two hours of instruction devoted entirely to N.C. Building Code including recent changes or amendments' to those codes annually.~~

~~(c) Courses accredited for renewal of Plumbing, Heating or Fuel Piping license, must be in areas related to plumbing, heating, air conditioning or fuel piping contracting such as the technical and practical aspects of the analysis of plans and specifications, estimating costs, fundamentals of installation and design, equipment, duct and pipe sizing, code requirements, fire hazards and other business ethics, taxation, payroll, cash management, bid and contract preparation, customer relations subjects as those may relate to engaging in business as a plumbing, heating or fuel piping contractor or to plumbing or heating systems.~~

~~(d) Persons holding multiple qualifications from the Board must complete at least six hours annually, but are not required to take hours each year in each qualification, except Plumbing~~

~~Contractor licensees who also hold a Residential Fire Sprinkler Installation Contractor license must obtain six hours continuing education annually in plumbing and four hours continuing education annually in residential fire sprinkler installation. Licensees with multiple qualifications shall take instruction so as to remain current in all areas of contracting work in which engaged.~~

~~(e) Licenses may not be renewed without documentation of course attendance, course name, course number, content and teacher. Falsification or misstatement of continuing education information shall be grounds for failure to renew licenses and disciplinary action, including revocation or suspension of licenses.~~

~~(f) Individuals who obtained licensure by means of the NICET certification as a Fire Sprinkler Installation Contractor, Fire Sprinkler Inspection Contractor, or Fire Sprinkler Inspection Technician, must maintain current certification with NICET as a condition of annual license renewal, and shall present evidence of same to the Board. In addition, licensees in this class must also obtain six hours of Board approved continuing education classes for each calendar year as a condition of license renewal.~~

~~(g) Beginning with renewals of license on or after January 1, 2003, each holder of a Fire Sprinkler Installation Contractors or Fire Sprinkler Inspection Contractor or Technician license not required to be current on the continuing education requirements of NICET must complete six hours of approved continuing education in areas related to fire sprinkler contracting during the preceding calendar year as a condition of license renewal. Licensees in the Fire Sprinkler Maintenance Technician classification shall obtain four hours of approved classroom continuing education annually relevant to the systems they maintain.~~

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1402 EXEMPTIONS AND CREDITS

~~(a) Licensees shall not carry over continuing education hours from one calendar year to the next.~~

~~(b) Newly licensed individuals shall have no continuing education requirements for the calendar year in which they first become licensed.~~

~~(c) Licensees who are unable to fulfill the required number of hours as the result of illness as certified by an attending physician and who will not be engaged in bidding, supervising or other activities for which license is required may petition the Board in writing for an exemption or request approval of an individualized plan tailored to their physical limitations. Such requests shall be approved within 90 days consistent with the requirements applicable to all licensees.~~

~~(d) Licensees who are over the age of 65, and who shall not be engaged in bidding, supervising or other activities for which license is required during the coming year, except as an employee of another licensee, may apply to the Board and obtain an exemption. If exemption is granted and the licensee thereafter wishes to engage in activity requiring license, the continuing education must be completed and satisfactory proof provided to the Board before any activity requiring license is undertaken.~~

~~(e) Instructors in Board approved courses shall receive continuing education credit for lecture hours in approved courses.~~

~~(f) Members of the Board, Board Staff and Resolution Review Committee shall receive continuing education credit for hours spent in hearings, resolution review conferences or in monitoring continuing education courses. Licensees sitting on the Resolution Review Committee or attending formal hearings other than as a Respondent shall receive credit for such hours, but are not relieved of the necessity to obtain the code hours required by 21 NCAC 50 .1401(b)(1).~~

~~(g) Licensees who have been called to active duty with any branch of the United States Military Service are not required to obtain continuing education credit hours during times they are deployed on active duty outside North Carolina and will not be required to obtain continuing education credit hours for the license year in which they return to North Carolina from active duty. The licensee will be required to obtain continuing education credit hours the years following return from deployment on active duty outside North Carolina. In order to qualify for exemption from continuing education credit hours based on active military duty, the licensee must submit a copy of the military orders documenting their active duty military deployment and return.~~

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1403 COMPUTATION OF CONTINUING EDUCATION HOURS

~~(a) To obtain one hour of continuing education credit a licensee and a course provider must certify the licensee's completion of one hour of actual instruction in a sponsored course. Except with prior approval by the Board, a licensee shall receive no credit for a course for which the licensee has previously received credit in the current or two preceding calendar years. Approval shall be granted only for courses on building code content and changes therein.~~

~~(b) Actual instruction does not include introductory remarks, breaks, business meetings, marketing of equipment, advertisements or time spent on non approved subjects. Each hour of actual instruction may include one break of 10 minutes duration.~~

Authority G.S. 87-21(b)(3); 87-2.

21 NCAC 50 .1404 COURSE REQUIREMENTS AND LIMITATIONS

~~(a) In order for course credit to be obtained, the course must be approved and consist of instruction in areas related to plumbing, heating, air conditioning and fire sprinkler contracting or inspection contracting such as the technical and practical aspects of the analysis of plans and specifications, estimating costs, fundamentals of installation and design, equipment, duct and pipe sizing, and NFPA code requirements, fire hazards and other subjects as those may relate to engaging in business as a plumbing, heating, fuel piping or fire sprinkler contractor or to plumbing or heating or fire sprinkler systems. Business ethics, taxation, payroll, cash management, bid and contract~~

preparation, customer relations or similar subjects related to plumbing or heating contracting shall also be approved.

(b) In order for course credit to be obtained, the course must be taught by the instructor or alternate listed when the course was approved by the Board, absent specific request and approval of the course as modified prior to the delivery of the program.

(c) Courses shall have a minimum of two hours of actual instruction and a maximum of six hours of actual instruction, per day.

(d) Courses shall be held in facilities conducive to learning. Such facilities include community colleges, technical schools, or community centers.

(e) Courses shall be open to all interested licensees that the host facility can reasonably accommodate and for audit by Board representatives; courses may not be restricted to employees, dealers or members of a particular firm or group.

(f) Once listed on the six month course roster, a course may not be cancelled during that six month period.

(g) Though courses may have commercial sponsors, the courses shall not include promotion of products or services of a particular firm or manufacturer.

(h) Correspondence, home study, license exam preparation (exam) courses shall not be approved.

(i) For the information of all licenses, the Board shall maintain a calendar of all courses available during a six month period.

(j) Licensees are required to bring with them to any continuing education course a current code book relevant to any particular course where building code is being taught.

(k) The maximum number of students allowed in any Board approved continuing education class shall be 100.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1405 APPROVAL OF COURSES

(a) To obtain approval of a course a provider or proposed provider must submit a written application to the board on or before the first day of September of each year for courses to be offered the following January through June and on or before the first day of March each year for courses to be offered the following July through December. The application must include:

- (1) two complete sets of written course materials and a detailed course outline; and
- (2) an application cover sheet on a form supplied by the Board identifying the applicant, the name, training and experience of all speakers, the proposed date(s) of the course, the host facility, the place where applications for enrollment should be sent, the cost, and the total continuing education hours being offered.

(b) Preliminary review of course applications shall be carried out by a committee appointed by the Board, that shall include some providers of approved courses. Committee recommendations shall be presented to the Board for final approval.

(c) As a condition of course approval, providers shall agree to submit to the board, in the form provided by the Board, an alphabetical listing of all licensees who attended and completed the course and a copy of any course materials distributed to

participants together with certification that the course was provided consistent with the application. The foregoing information shall be submitted within 15 days of the course date set out on the application.

(d) Providers who fail to provide the information set forth in Paragraph (c) of this Rule shall not thereafter be approved to conduct a course.

(e) Licensees may select courses other than those offered by pre-approved providers while attending out of state educational functions. In order to obtain approval, the licensee must submit a written application for approval on a form obtained from the Board upon completion of each such course. In lieu of such form, an advertising brochure may be submitted, provided the brochure includes the topic, content of lecture material, date, time, location, name and qualifications of speaker and the number of contact hours received upon completion of the program. The licensee must also provide independent verification of attendance. Board evaluation of courses not pre-approved may result in disapproval.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1407 CERTIFICATION OF COURSE COMPLETION BY LICENSEES AND PROVIDERS

(a) Licensees shall submit, prior to license renewal, a certification of the number of continuing education hours completed in that calendar year.

(b) Upon request, applicants shall provide evidence of the course title, number, teacher, location and date, hours in fact attended, and a copy of the certificate provided by the teacher at the conclusion of the course.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1408 ADVERTISEMENTS BY COURSE PROVIDERS OR INSTRUCTORS

Providers of approved courses shall provide an advance copy of any brochure or marketing material for review 10 days before use and shall include in brochures and course descriptions a statement substantially as follows:

This course has been approved by the North Carolina State Board of Examiners of Plumbing, Heating & Fire Sprinkler Contractors for continuing education credit toward license renewal in the amount of hours. This course is not sponsored by the Board.

Authority G.S. 87-21(b)(3); 87-22.

21 NCAC 50 .1409 TERMINATION OF COURSE OR PROVIDER APPROVAL

The Board may suspend or terminate approval of any course or all courses offered by a provider if the Board finds a failure to comply with the Board's rules, the course outline, incompetence or misconduct of faculty or for misstatements as to content or participation, and may specify the conditions under which future applications would be favorably considered.

Authority G.S. 87-21(b)(3); 87-22.

**21 NCAC 50 .1410 PETITIONS FOR
REINSTATEMENT OF LICENSE**

~~Following a finding of noncompliance with these continuing education requirements, renewal will not be allowed, discipline may be imposed as indicated by 21 NCAC 50 .1401 of this Section, and the licensee may be required to complete sufficient coursework to eliminate the deficiency prior to license reinstatement or renewal.~~

Authority G.S. 87-21(b)(3); 87-22.

**CHAPTER 54 - NORTH CAROLINA PSYCHOLOGY
BOARD**

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Psychology Board intends to amend the rule cited as 21 NCAC 54 .1605.

Proposed Effective Date: *December 1, 2011*

Public Hearing:

Date: *August 17, 2011*

Time: *9:00 a.m.*

Location: *NC Psychology Board, 895 State Farm Road, Suite 101, Boone, NC 28607*

Reason for Proposed Action: *Additional revenue is needed for the Board to continue to carry out its statutory mandate to protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology. Examination and renewal fees have not been raised since 1994.*

Link to agency website: www.psychologyboard.org

Procedure by which a person can object to the agency on a proposed rule: *Objections to this Rule may be submitted, in writing, to Martha Storie, Executive Director, NC Psychology Board, 895 State Farm Road, Suite 101, Boone, NC 28607; email mstorie@ncpsychologyboard.org; fax to Martha Storie at (828) 265-8611; or at the public hearing. Persons wishing to make oral presentations at the hearing are requested to notify Ms. Storie of such no later than 5:00 p.m. on August 15, 2011.*

Comments may be submitted to: *Martha Storie, NC Psychology Board, 895 State Farm Road, Suite 101, Boone, NC 28607; fax (828) 265-8611; email mstorie@ncpsychologyboard.org*

Comment period ends: *September 30, 2011*

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 (≥\$500,000)**
- ☒ **None**

SECTION .1600 - GENERAL PROVISIONS

21 NCAC 54 .1605 FEES

In addition to fees specified in G.S. 90, Article 18A, the following charges shall be assessed for the indicated services:

- (1) eight dollars (\$8.00) - copy of annual register of licensed psychologists;
- (2) five dollars (\$5.00) - copy of 21 NCAC 54;
- (3) two hundred fifty dollars ~~(\$250.00)~~ ~~(\$200.00)~~ - renewal of license;
- (4) the cost of the examination set by the vendor to the Board plus fifty dollars ~~(\$50.00)~~ ~~twenty-five dollars (\$25.00)~~ - national written examination;
- (5) ~~one~~ two hundred dollars ~~(\$200.00)~~ ~~(\$100.00)~~ - state examination;
- (6) twenty five cents (\$0.25) per page - copy of minutes of board meetings, transcript of hearing, or file documents;
- (7) one hundred dollars (\$100.00) - application fee;
- (8) one hundred dollars (\$100.00) - reinstatement fee;
- (9) twenty dollars (\$20.00) - returned check;
- (10) ten dollars (\$10.00) - each written license verification, whether submitted individually or on a list;
- (11) costs of disciplinary action as follows:
 - (a) three hundred dollars (\$300.00) - consent order; and
 - ~~(b) three hundred dollars (\$300.00) - failure to appear on noticed hearing date or failure to give at least 72 hours notice of a request to continue the hearing; and~~
 - ~~(c)~~ (b) three hundred dollars (\$300.00) per hour for a hearing which results in disciplinary action, with a minimum charge of three hundred dollars (\$300.00) for the first hour or portion thereof, and then prorated thereafter for each half-hour;

- (12) fifty dollars (\$50.00) - registration fee for certificate of registration for professional corporation or limited liability company; and
- (13) twenty-five dollars (\$25.00) - renewal fee for certification of registration for professional corporation or limited liability company.

Authority G.S. 12-3.1(c); 55B-10; 55B-11; 90-270.9; 90-270.15(c); 90-270.18(b)(c).

CHAPTER 58 - REAL ESTATE COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Real Estate Commission intends to adopt the rule cited as 21 NCAC 58A .0510, amend the rules cited as 21 NCAC 58A .0107, .0114, .0402-.0403, .0405, .0504-.0505, .0616, .1902-.1903; 58C .0207, .0603; 58E .0204, .0507, and repeal the rule cited as 21 NCAC 58A .0406.

Proposed Effective Date: January 1, 2012

Public Hearing:

Date: October 12, 2011

Time: 9:00 a.m.

Location: NC Real Estate Commission, 1313 Navaho Drive, Raleigh, NC 27609

Reason for Proposed Action:

21 NCAC 58A .0107, .0114, .0402-.0403, .0405, .0504-.0505, .0616, .1902-.1903; 58C .0207, .0603; 58E .0204, .0507 – To clarify the rules in light of suggestions from the public, licensees, and the Commission's staff and to bring the rules into conformity with recent legislative changes to G.S. 47E and G.S. 93A, enacted in the General Assembly session by S.L. 2011-217 and S.L. 2011-362.

21 NCAC 58A .0406 – To clarify the rules in light of suggestions from the public, licensees, and the Commission's staff.

21 NCAC 58A .0510 – To bring the rules into conformity with recent legislative changes to G.S. 93A, enacted in the last General Assembly session by S.L. 2011-217.

Link to agency website: www.ncrec.gov

Procedure by which a person can object to the agency on a proposed rule: *Any person who objects or who has a comment about proposed rule changes may submit written comments to rule-making coordinator, Thomas R. Miller at NC Real Estate Commission, P.O. Box 17100, Raleigh, NC 27619; fax (919) 877-4220; or email legal@ncrec.gov.*

Comments may be submitted to: *Thomas R. Miller, NC Real Estate Commission, P.O. Box 17100, Raleigh, NC 27619; phone (919) 875-3700; fax (919) 877-4220; email legal@ncrec.gov*

Comment period ends: October 12, 2011

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 58A - REAL ESTATE BROKERS

SECTION .0100 - GENERAL BROKERAGE

21 NCAC 58A .0107 HANDLING AND ACCOUNTING OF FUNDS

(a) Except as provided herein, all monies received by a licensee acting in his or her fiduciary capacity shall be deposited in a trust or escrow account maintained by a broker not later than three banking days following receipt of such monies except that earnest money deposits paid by means other than currency which are received on offers to purchase real estate and tenant security deposits paid by means other than currency which are received in connection with real estate leases shall be deposited in a trust or escrow account not later than three banking days following acceptance of such offer to purchase or lease; the date of acceptance of such offer to purchase or lease shall be set forth in the purchase or lease agreement. All monies received by a provisional broker shall be delivered immediately to the broker by whom he or she is employed, except that all monies received by nonresident commercial licensees shall be delivered as required by Rule .1808 of this Subchapter. A licensee may accept custody of a check or other negotiable instrument made payable to the seller of real property as payment for option money or option fee in connection with an option contract or for a non-refundable fee to the seller for a buyer's right to inspect property or determine its suitability for the buyer's needs prior to the closing of a sales transaction, but only for the purpose of delivering the instrument to the optionor-seller, seller. While the instrument is in the custody of the licensee, the licensee shall, according to the instructions of the ~~buyer-optionee, buyer,~~ either deliver it to the ~~seller-optionor seller~~ or return it to the ~~buyer-optionee, buyer.~~ The licensee shall safeguard the instrument and shall be responsible to the parties on the instrument for its prompt and safe delivery. In no event shall a licensee retain such an instrument for more than three business days after the acceptance of the option or other sales contract.

(b) In the event monies received by a licensee while acting in a fiduciary capacity are deposited in a trust or escrow account which bears interest, the licensee having custody over such monies shall first secure from all parties having an interest in the monies written authorization for the deposit of the monies in an interest-bearing account. Such authorization shall specify how and to whom the interest will be disbursed, and, if contained in an offer, contract, lease, or other transaction instrument, such authorization shall be set forth in a conspicuous manner which shall distinguish it from other provisions of the instrument.

(c) Closing statements shall be furnished to the buyer and the seller in the transaction not more than five days after closing.

(d) Trust or escrow accounts shall be so designated by the bank or savings and loan association in which the account is located, and all deposit tickets and checks drawn on said account as well as the monthly bank statement for the account shall bear the words "Trust Account" or "Escrow Account."

(e) A licensee shall maintain and retain records sufficient to identify the ownership of all funds belonging to others. Such records shall be sufficient to show proper deposit of such funds in a trust or escrow account and to verify the accuracy and proper use of the trust or escrow account. The required records shall include:

- (1) bank statements;
- (2) ~~canceled checks~~ canceled checks and other evidence or memoranda of payments from the account, whether by transfer between accounts, wire payments, or payments by electronic means, which shall be referenced to the corresponding journal entry or check stub entries and to the corresponding sales transaction ledger sheets or for rental transactions, the corresponding property or owner ledger sheets. Checks and other evidence or memoranda of payments from the account shall conspicuously identify the payee and shall bear a notation identifying the purpose of the disbursement. When a ~~check~~ payment is used to disburse funds for more than one sales transaction, owner, or property, the check or other evidence or memoranda of payment shall bear a notation identifying each sales transaction, owner, or property for which disbursement is made, including the amount disbursed for each, and the corresponding sales transaction, property, or owner ledger entries. When necessary, the check notation may refer to the required information recorded on a supplemental disbursement worksheet which shall be cross-referenced to the corresponding ~~check~~ check or payment. In lieu of retaining canceled checks, a licensee may retain digitally imaged copies of the canceled checks or substitute checks provided that such images are legible reproductions of the front and back of such instruments with no smaller images than 1.1875 x 3.0 inches and provided that the licensee's bank retains for a period of at least six years the original checks,

"substitute checks" as described in 12 C.F.R. 229.51 or the capacity to provide substitute checks as described in 12 C.F.R. 229.51, and makes the original or substitute checks available to the licensee and the Commission upon request;

- (3) ~~deposit tickets.~~ tickets or other evidence or memoranda of deposits or payments into the account, whether by transfer between accounts, wire payments, or payments by electronic means. For a sales transaction, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the purpose and remitter of the funds deposited, the property, the parties involved, and a reference to the corresponding sales transaction ledger entry. For a rental transaction, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the purpose and remitter of the funds deposited, the tenant, and the corresponding property or owner ledger entry. For deposits of funds belonging to or collected on behalf of a property owner association, the deposit ticket or other evidence or memoranda of deposits or payments into the account shall identify the property or property interest for which the payment is made, the property or interest owner, the remitter, and the purpose of the payment. When a single deposit ticket or payment is used to deposit funds collected for more than one sales transaction, property owner, or property, the required information shall be recorded on the ticket or other evidence or memoranda of deposits or payments into the account for each sales transaction, owner, or property, or ~~the ticket~~ it may refer to the same information recorded on a supplemental deposit worksheet which shall be cross-referenced to the corresponding deposit ticket;
- (4) a payment record sheet for each property or interest for which funds are collected and deposited into a property owner association trust account as required by Paragraph (i) of this Rule. Payment record sheets shall identify the amount, date, remitter, and purpose of payments received, the amount and nature of the obligation for which payments are made, and the amount of any balance due or delinquency;
- (5) a separate ledger sheet for each sales transaction and for each property or owner of property managed by the licensee identifying the property, the parties to the transaction, the amount, date, and purpose of the deposits and from whom received, the amount, date, check number, and purpose of disbursements and to

whom paid, and the running balance of funds on deposit for the particular sales transaction or, in a rental transaction, the particular property or owner of property. Monies held as tenant security deposits in connection with rental transactions may be accounted for on a separate tenant security deposit ledger for each property or owner of property managed by the licensee. For each security deposit the tenant security deposit ledger shall identify the remitter, the date the deposit was paid, the amount, the tenant, landlord, and subject property. For each disbursement of tenant security deposit monies, the ledger shall identify the check number, amount, payee, date, and purpose of the disbursement. The ledger shall also show a running balance. When tenant security deposit monies are accounted for on a separate ledger as provided herein, deposit tickets, canceled checks and supplemental worksheets shall reference the corresponding tenant security deposit ledger entries when appropriate;

- (6) a journal or check stubs identifying in chronological sequence each bank deposit and disbursement of monies to and from the trust or escrow account, including the amount and date of each deposit and a reference to the corresponding deposit ticket and any supplemental deposit worksheet, and the amount, date, check number, and purpose of disbursements and to whom paid. The journal or check stubs shall also show a running balance for all funds in the account;
- (7) copies of contracts, leases and management agreements;
- (8) closing statements and property management statements;
- (9) covenants, bylaws, minutes, management agreements and periodic statements relating to the management of a property owner association; and
- (10) invoices, bills, and contracts paid from the trust account, and any documents not otherwise described herein necessary and sufficient to verify and explain record entries.

Records of all receipts and disbursements of trust or escrow monies shall be maintained in such a manner as to create an audit trail from deposit tickets and canceled checks to check stubs or journals and to the ledger sheets. Ledger sheets and journals or check stubs must be reconciled to the trust or escrow account bank statements on a monthly basis. To be sufficient, records of trust or escrow monies must include a worksheet for each such monthly reconciliation showing the ledger sheets, journals or check stubs, and bank statements to be in agreement and balance.

(f) All trust or escrow account records shall be made available for inspection by the Commission or its authorized representatives in accordance with Rule 21 NCAC 58A .0108.

(g) In the event of a dispute between the seller and buyer or landlord and tenant over the return or forfeiture of any deposit other than a residential tenant security deposit held by a licensee, the licensee shall retain said deposit in a trust or escrow account until the licensee has obtained a written release from the parties consenting to its disposition or until disbursement is ordered by a court of competent jurisdiction. Alternatively, the licensee may deposit the disputed monies with the appropriate clerk of court in accordance with the provisions of G.S. 93A-12. If it appears to a licensee holding a disputed deposit that a party has abandoned his or her claim, the licensee may disburse the money to the other claiming parties according to their written agreement provided that the licensee first makes a reasonable effort to notify the party who has apparently abandoned his or her claim and provides that party with an opportunity to renew his or her claim to the disputed funds. Tenant security deposit monies shall be disposed of in accordance with the requirements of G.S. 42-50 through 56 and G.S. 42A-18.

(h) A licensee may transfer earnest money deposits in his or her possession collected in connection with a sales transaction from his or her trust account to the closing attorney or other settlement agent not more than ten days prior to the anticipated settlement date. A licensee shall not disburse prior to settlement any earnest money in his or her possession for any other purpose without the written consent of the parties.

(i) The funds of a property owner association, when collected, maintained, disbursed or otherwise controlled by a licensee, are trust monies and shall be treated as such in the manner required by this Rule. Such funds must be deposited into and maintained in a trust or escrow account dedicated exclusively for funds belonging to a single property owners association and may not be commingled with funds belonging to other property owner associations or other persons or parties. A licensee who undertakes to act as manager of a property owner association or as the custodian of funds belonging to a property owner association shall provide the association with periodic statements which report the balance of association funds in the licensee's possession or control and which account for the funds the licensee has received and disbursed on behalf of the association. Such statements must be made in accordance with the licensee's agreement with the association, but in no event shall the statements be made less frequently than every 90 days.

(j) Every licensee shall safeguard the money or property of others coming into his or her possession in a manner consistent with the requirements of the Real Estate License Law and the rules adopted by the Commission. A licensee shall not convert the money or property of others to his or her own use, apply such money or property to a purpose other than that for which it was paid or entrusted to him or her, or permit or assist any other person in the conversion or misapplication of such money or property.

(k) In addition to the records required by Paragraph (e) of this Rule, a licensee acting as agent for the landlord of a residential property used for vacation rentals shall create and maintain a subsidiary ledger sheet for each property or owner of such properties onto which all funds collected and disbursed are identified in categories by purpose. On a monthly basis, the licensee shall reconcile the subsidiary ledger sheets to the corresponding property or property owner ledger sheet.

(l) In lieu of maintaining a subsidiary ledger sheet, the licensee may maintain an accounts payable ledger sheet for each owner or property and each vendor to whom trust monies are due for monies collected on behalf of the owner or property identifying the date of receipt of the trust monies, from whom the monies were received, rental dates, and the corresponding property or owner ledger sheet entry including the amount to be disbursed

for each and the purpose of the disbursement. The licensee may also maintain an accounts payable ledger sheet in the format described in Paragraph (k) of this Rule for vacation rental tenant security deposit monies and vacation rental advance payments.

Authority G.S. 93A-3(c); 93A-9.

21 NCAC 58A .0114 RESIDENTIAL PROPERTY DISCLOSURE STATEMENT

(a) Every owner of real property subject to a transfer of the type contemplated by Chapter 47E of the General Statutes, Statutes shall complete the following residential property disclosure statement and furnish a copy of the complete statement to a purchaser in accordance with the requirements of G.S. 47E-4. The form shall bear the seal of the North Carolina Real Estate Commission and shall read as follows:

[N.C. REAL ESTATE COMMISSION SEAL]

**STATE OF NORTH CAROLINA
RESIDENTIAL PROPERTY DISCLOSURE STATEMENT
AND OWNER'S ASSOCIATION AND MANDATORY COVENANTS DISCLOSURE STATEMENT**

Instructions to Property Owners

1. G.S. 47E requires owners of residential real estate (single-family ~~homes~~ homes, individual condominiums, townhouses, and the like, and buildings with up to four dwelling units) to furnish purchasers a property disclosure ~~statement~~ statement and Owner's Association and Mandatory Covenants Disclosure Statement ("Statement"). This form is the only one approved for this purpose. A disclosure statement must be furnished in connection with the sale, exchange, option and sale under a lease with option to purchase (unless the tenant is already occupying or intends to occupy the dwelling). A disclosure statement is not required for some transactions, including the first sale of a dwelling which has never been inhabited and transactions of residential property made pursuant to a lease with option to purchase where the lessee occupies or intends to occupy the dwelling. For a complete list of exemptions, see G.S. 47E-2.
2. You must check ☒ one of the boxes for each of the questions on the reverse side of this form.
 - a. If you check "Yes" for any question, you must explain your answer and either describe any problem or attach a report from an engineer, contractor, pest control operator or other expert or public agency describing it. If you attach a report, you will not be liable for any inaccurate or incomplete information contained in it so long as you were not grossly negligent in obtaining or transmitting the information.
 - b. If you check "No", you are stating that you have no actual knowledge of any problem. If you check "No" and you know there is a problem, you may be liable for making an intentional misstatement.
 - c. If you check "No Representation", you have no duty to disclose the conditions or characteristics of the property, even if you should have known of them.
 - * If you check "Yes" or "No" and something happens to the property to make your Statement incorrect or inaccurate (for example, the roof begins to leak), you must promptly give the purchaser a corrected Statement or correct the problem.
3. If you are assisted in the sale of your property by a licensed real estate broker, you are still responsible for completing and delivering the Statement to the purchasers; and the broker must disclose any material facts about your property which they know or reasonably should know, regardless of your responses on the Statement.
4. You must give the completed Statement to the purchaser no later than the time the purchaser makes an offer to purchase your property. If you do not, the purchaser can, under certain conditions, cancel any resulting contract (See "Note to Purchasers" below). You should give the purchaser a copy of the Statement containing your signature and keep a copy signed by the purchaser for your records.

Note to Purchasers

If the owner does not give you a Residential Property Disclosure Statement by the time you make your offer to purchase the property, you may under certain conditions cancel any resulting contract and be entitled to a refund of any deposit monies you may have paid. To cancel the contract, you must personally deliver or mail written notice of your decision to cancel to the owner or the owner's agent within three calendar days following your receipt of the Statement, or three calendar days following the date of the contract, whichever occurs first. However, in no event does the Disclosure Act permit you to cancel a contract after settlement of the transaction or (in the case of a sale or exchange) after you have occupied the property, whichever occurs first.

5. In the space below, type or print in ink the address of the property (sufficient to identify it) and your name. Then sign and date.

Property Address: _____
 Owner's Name(s): _____
Owner(s) acknowledge having examined this Statement before signing and that all information is true and correct as of the date signed.

Owner Signature: _____ Date _____, ____
 Owner Signature: _____ Date _____, ____
Purchaser(s) acknowledge receipt of a copy of this disclosure statement; that they have examined it before signing; that they understand that this is not a warranty by owner or owner's agent; that it is not a substitute for any inspections they may wish to obtain; and that the representations are made by the owner and not the owner's agent(s) or subagent(s). Purchaser(s) are encouraged to obtain their own inspection from a licensed home inspector or other professional.

Purchaser Signature: _____ Date _____, ____
 Purchaser Signature: _____ Date _____, ____

Property Address/Description: _____

[Note: In this form, "property" refers only to dwelling unit(s) and not sheds, detached garages or other buildings.]

Regarding the property identified above, do you know of any problem (malfunction or defect) with any of the following:

	Yes*	No	No Representation
1. FOUNDATION, SLAB, FIREPLACES/CHIMNEYS, FLOORS, WINDOWS (INCLUDING STORM WINDOWS AND SCREENS), DOORS, CEILINGS, INTERIOR AND EXTERIOR WALLS, ATTACHED GARAGE, PATIO, DECK OR OTHER STRUCTURAL COMPONENTS including any modifications to them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Siding is: <input type="checkbox"/> Masonry <input type="checkbox"/> Wood <input type="checkbox"/> Composition/Hardboard <input type="checkbox"/> Vinyl <input type="checkbox"/> Synthetic Stucco <input type="checkbox"/> Other _____			<input type="checkbox"/>
b. Approximate age of structure? _____			<input type="checkbox"/>
2. ROOF (leakage or other problem)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
a. Approximate age of roof covering? _____			<input type="checkbox"/>
3. WATER SEEPAGE, LEAKAGE, DAMPNESS OR STANDING WATER in the basement, crawl space or slab?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4. ELECTRICAL SYSTEM (outlets, wiring, panel, switches, fixtures etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. PLUMBING SYSTEM (pipes, fixtures, water heater, etc.)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. HEATING AND/OR AIR CONDITIONING?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

PROPOSED RULES

- a. Heat Source is: ☐ Furnace ☐ Heat Pump ☐ Baseboard ☐ Other _____ ☐
- b. Cooling Source is: ☐ Central Forced Air ☐ Wall/Window Unit(s)
☐ Other _____ ☐
- c. Fuel Source is: ☐ Electricity ☐ Natural Gas ☐ Propane ☐ Oil ☐ Other _____ ☐
7. WATER SUPPLY (including water quality, quantity and water pressure)? ☐ ☐ ☐
- a. Water supply is: ☐ City/County ☐ Community System ☐ Private Well
☐ Other _____ ☐
- b. Water pipes are: ☐ Copper ☐ Galvanized ☐ Plastic ☐ Other _____
☐ Unknown ☐
8. SEWER AND/OR SEPTIC SYSTEM? ☐ ☐ ☐
- a. Sewage disposal system is: ☐ Septic Tank ☐ Septic Tank with Pump
☐ Community System ☐ Connected to City/County System
☐ City/County System available ☐ Straight pipe (wastewater does not go into a septic or
other sewer system [note: use of this type of system violates state law]) ☐
☐ Other _____
9. BUILT-IN APPLIANCES (RANGE/OVEN, ATTACHED MICROWAVE,
HOOD/FAN, DISHWASHER, DISPOSAL, etc.)? ☐ ☐ ☐
10. PRESENT INFESTATION, OR DAMAGE FROM PAST INFESTATION OF
WOOD DESTROYING INSECTS OR ORGANISMS which has not been repaired? ☐ ☐ ☐
11. DRAINAGE, GRADING OR SOIL STABILITY OF LOT? ☐ ☐ ☐
12. OTHER SYSTEMS AND FIXTURES: CENTRAL VACUUM, POOL, HOT TUB,
SPA, ATTIC FAN, EXHAUST FAN, CEILING FAN, SUMP PUMP, IRRIGATION
SYSTEM, TV CABLE WIRING OR SATELLITE DISH, OR OTHER SYSTEMS? ☐ ☐ ☐
- Also regarding the property identified above, including the lot, other improvements, and
fixtures located thereon, do you have any**
13. ROOM ADDITIONS OR OTHER STRUCTURAL CHANGES? ☐ ☐ ☐
14. ENVIRONMENTAL HAZARDS (substances, materials or products) including
asbestos, formaldehyde, radon gas, methane gas, lead-based paint, underground
storage tank, or other hazardous or toxic material (whether buried or covered),
contaminated soil or water, or other environmental contamination)? ☐ ☐ ☐
15. COMMERCIAL, INDUSTRIAL, OR MILITARY NOISE, ODOR, SMOKE, ETC.
AFFECTING THE PROPERTY? ☐ ☐ ☐
16. VIOLATIONS OF ZONING ORDINANCES, RESTRICTIVE COVENANTS OR
OTHER LAND-USE RESTRICTIONS, OR BUILDING CODES INCLUDING THE
FAILURE TO OBTAIN PROPER PERMITS FOR ROOM ADDITIONS OR
OTHER STRUCTURAL CHANGES(S)? ☐ ☐ ☐
17. UTILITY OR OTHER EASEMENTS, SHARED DRIVEWAYS, PARTY WALLS
OR ENCROACHMENTS FROM OR ON ADJACENT PROPERTY? ☐ ☐ ☐
18. LAWSUITS, FORECLOSURES, BANKRUPTCY, TENANCIES, JUDGMENTS,
TAX LIENS, PROPOSED ASSESSMENTS, MECHANICS' LIENS,

PROPOSED RULES

MATERIALMENS' LIENS, OR NOTICE FROM ANY GOVERNMENTAL AGENCY that could affect title to the property?

☐ ☐ ☐

~~19. OWNERS' ASSOCIATION OR "COMMON AREA" EXPENSES OR ASSESSMENTS?~~

~~☐ ☐ ☐~~

~~20.19. FLOOD HAZARD or that the property is in a FEDERALLY-DESIGNATED FLOOD PLAIN?~~

~~☐ ☐ ☐~~

~~21.20. PRIVATE ROAD(S) OR STREETS adjoining the property?~~

~~☐ ☐ ☐~~

~~a. If yes, do you know of an existing owner's association or maintenance agreement to maintain the road or street?~~

~~☐ ☐ ☐~~

* If you answered "Yes" to any of the above questions, please explain (Attach additional sheets, if necessary):

In lieu of providing a written explanation, you may attach a written report to this Disclosure Statement by a public agency, engineer, land surveyor, geologist, pest control operator, contractor, home inspector or other expert, dealing with matters within the scope of that public agency's functions or the expert's license or expertise.

	<u>Yes*</u>	<u>No</u>	<u>No Repre- sentation</u>
21. Also regarding the property identified above, is the lot to be conveyed subject to <u>regulation by one or more owners' association(s) and governing documents which impose various mandatory covenants, conditions, and restrictions upon the lot, including, but not limited to obligations to pay regular assessments or dues and special assessments?</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

***If you answered "No" or "No Representations" to question 21 above, you do not need to answer the remaining questions on this Statement. Skip to the bottom of this page and initial and date the page. If you answered "Yes" to question 21 above, you must complete the remainder of this Statement.**

22. The lot is subject to the following owners' association(s) [insert N/A into any blank that does not apply]:

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are:

(specify name) _____ whose regular assessments ("dues") are \$ _____ per _____. The name, address, and telephone number of the president of the owners' association or the association manager are:

23. As of the date this Statement is signed, there are no other dues, fees, or special assessments which have been duly approved as required by the applicable declaration or bylaws, payable to an association to which the lot is subject, except:

24. As of the date this Statement is signed, there are no unsatisfied judgments against or pending lawsuits involving the lot, the planned community or the association to which the lot is subject, with the exception of any action filed by the association for the collection of delinquent assessments on lots other than the lot to be sold, except:

PROPOSED RULES

25. The following services and amenities are paid for by the above owners' association(s) from the regular assessments ("dues"): (Check all that apply).

	Yes*	No	No Representation
Master Insurance Policy Including All Units	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Real Property Taxes on the Common Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Management Fee	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Building Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Exterior Yard/Landscaping Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Common Areas Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Trash Removal	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Recreational Amenity Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pest Treatment/Extermination	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Street Lights	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Water	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Casualty/Liability Insurance on Common Areas	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sewer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stormwater Management/Drainage/Ponds	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet Service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cable	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Private Road Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking Area Maintenance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Legal/Accounting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gate and/or Security	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Other (specify) _____

(b) The form described in Paragraph (a) of this Rule may be reproduced, but the form shall not be altered or amended in any way.

Authority G.S. 47E-4(b),(b1); 93A-3(c); 93A-6.

SECTION .0400 - EXAMINATIONS

21 NCAC 58A .0402 EXAMINATION SUBJECT MATTER, FORMAT, AND PASSING SCORES

(a) The real estate licensing examination shall test applicants on the following general subject areas:

- (1) real estate law;
- (2) real estate brokerage law and practices;
- (3) the Real Estate License Law, rules of the Commission, and the Commission's trust account guidelines;
- (4) real estate finance;
- (5) real estate valuation (appraisal);
- (6) real estate mathematics; and
- (7) related subject areas.

(b) The real estate licensing examination shall consist of two sections, a "national" section on general real estate law, principles and practices and a "state" section on North Carolina real estate law, principles and practices. Unless the "national" section is waived by the Commission for an applicant based on its authority under G.S. 93A-9, an applicant must pass both sections of the examination in order to pass the examination. In order to pass the real estate licensing examination, an applicant must attain a score for each required section of the examination that is at least equal to the passing score established by the Commission for each section of the examination in compliance with psychometric standards for establishing passing scores for

occupational licensing examinations as set forth in the "Standards for Educational and Psychological Testing" jointly promulgated by the American Educational Research Association, the American Psychological Association, and the

National Council on Measurement in Education. ~~Passing applicants will receive only a score of "pass"; however, failing applicants shall be informed of their actual score. An applicant who passes one or both sections of the examination will receive only a score of "pass" for the section(s) passed; however, an applicant who fails one or both sections of the examination shall be informed of their actual score for the section(s) failed. An applicant who is required to pass both sections of the examination must do so within his or her 180-day examination eligibility period, and if the applicant passes only one section during his or her 180-day examination eligibility period, then that passing score shall not be recognized if the applicant subsequently re-applies to the Commission for a license. A passing examination score obtained by a license applicant for both sections of the examination, or for the "state" section if that is the only section an applicant is required to pass, shall be recognized as valid for a period of one year from the date of examination; the examination was passed, during which time the applicant must fully satisfy any remaining requirements for licensure that were pending at the time of examination; provided that the running of the one-year period shall be tolled upon mailing the applicant the letter contemplated in 21 NCAC 58A .0616(b) informing the applicant that his or her moral character~~

is in question, and shall resume running when the applicant's application is either approved for license issuance, denied or withdrawn. The application of an applicant with a passing examination score who fails to satisfy all remaining requirements for licensure within one year shall be canceled and the applicant shall be required to reapply and satisfy all requirements for licensure, including retaking and passing the license examination, in order to be eligible for licensure.

Authority G.S. 93A-3(c); 93A-4(b),(d).

21 NCAC 58A .0403 RE-APPLYING FOR EXAMINATION

(a) An individual whose license application has been canceled pursuant to Rule .0302(c) of this Subchapter and whose 180 day examination eligibility period has expired who wishes to be rescheduled for the real estate license examination must re-apply to the Commission by filing a complete license application as described in Rule .0301 of this Subchapter and paying the prescribed application fee. Subsequent examinations shall then be scheduled in accordance with Rule .0401 of this Section.

(b) An individual whose license application has been canceled pursuant to Rule .0302(c) of this Subchapter who wishes to be rescheduled for the license examination before the expiration of his or her 180 day examination eligibility period may utilize an abbreviated electronic license application and examination rescheduling procedure by directly contacting the Commission's authorized testing service, paying both the license application fee and the examination fee to the testing service, and following the testing service's established procedures.

(c) An applicant who fails one or both sections of the license examination shall not be allowed to retake the failed section(s) of the examination for at least 10 calendar days.

Authority G.S. 93A-4(b),(d).

21 NCAC 58A .0405 CONFIDENTIALITY OF EXAMINATIONS

Licensing examinations are ~~the exclusive property of the Commission and are~~ confidential. No applicant or licensee shall obtain, attempt to obtain, receive, or communicate to other persons examination questions or answers. Violation of this Rule is grounds for denial of a real estate license if the violator is an applicant and disciplinary action if the violator is a licensee or becomes a licensee prior to the discovery of the violation by the Commission.

Authority G.S. 93A-3(c); 93A-4(d); 93A-6.

21 NCAC 58A .0406 EXAMINATION REVIEW

~~An applicant who fails the license examination may review the examination at the testing center immediately following completion of the examination and receipt of the applicant's examination results but prior to leaving the testing center. An applicant who fails the examination and who declines the opportunity to immediately review the examination prior to leaving the testing center shall be deemed to have waived the right to review the examination. An applicant who is reviewing his or her failed examination may not have any other person present during his or her review, nor may any other person~~

~~review an examination on behalf of an applicant. An applicant who passes the license examination may not review the examination.~~

Authority G.S. 93A-4(d).

SECTION .0500 - LICENSING

21 NCAC 58A .0504 ACTIVE AND INACTIVE LICENSE STATUS

(a) Except for licenses that have expired or that have been ~~canceled~~, revoked, suspended or surrendered, all licenses issued by the Commission shall be designated as being either on active status or inactive status. The holder of a license on active status may engage in any activity requiring a real estate license and may be compensated for the provision of any lawful real estate brokerage service. The holder of a license on inactive status may not engage in any activity requiring a real estate license, including the referral for compensation of a prospective seller, buyer, landlord or tenant to another real estate licensee or any other party. A licensee holding a license on inactive status must renew such license and pay the prescribed license renewal fee in order to continue to hold such license. The Commission may take disciplinary action against a licensee holding a license on inactive status for any violation of G.S. 93A or any rule promulgated by the Commission, including the offense of engaging in an activity for which a license is required while a license is on inactive status.

(b) A license issued to a provisional broker shall, upon initial licensure, be assigned to inactive status, ~~except that a license issued to a provisional broker based on reciprocity with another licensing jurisdiction shall be assigned to active status.~~ status. A license issued to a firm or a broker other than a provisional broker shall be assigned to active status. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker may change the status of his or her license from active to inactive status by submitting a written request to the Commission. A provisional broker's license shall be assigned by the Commission to inactive status when the provisional broker is not under the active, direct supervision of a broker-in-charge. A firm's license shall be assigned by the Commission to inactive status when the firm does not have a qualifying broker with an active license. Except for persons licensed under the provisions of Section .1800 of this Subchapter, a broker shall also be assigned to inactive status if, upon the second renewal of his or her license following initial licensure, or upon any subsequent renewal, he or she has not satisfied the continuing education requirement described in Rule .1702 of this Subchapter.

(c) A provisional broker with an inactive license who desires to have such license placed on active status must comply with the procedures prescribed in Rule .0506 of this Section.

(d) A broker, other than a provisional broker, with an inactive license who desires to have such license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the broker, a statement that the broker has satisfied the continuing education requirements prescribed by Rule .1703 of this Subchapter, the date of the request, and the

signature of the broker. Upon the mailing or delivery of this form, the broker may engage in real estate brokerage activities requiring a license; however, if the broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the broker shall immediately terminate his or her real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the broker is notified that he or she is not eligible for license activation due to a continuing education deficiency, the broker must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(e) A firm with an inactive license which desires to have its license placed on active status shall file with the Commission a request for license activation on a form provided by the Commission containing identifying information about the firm and its qualifying broker. If the qualifying broker has an inactive license, he or she must satisfy the requirements of Paragraph (d) of this Rule. Upon the mailing or delivery of the completed form by the qualifying broker, the firm may engage in real estate brokerage activities requiring a license; however, if the firm's qualifying broker does not receive from the Commission a written acknowledgment of the license activation within 30 days of the date shown on the form, the firm shall immediately terminate its real estate brokerage activities pending receipt of the written acknowledgment from the Commission. If the qualifying broker is notified that the firm is not eligible for license activation due to a continuing education deficiency on the part of the qualifying broker, the firm must terminate all real estate brokerage activities until such time as the continuing education deficiency is satisfied and a new request for license activation is submitted to the Commission.

(f) A person licensed as a broker under Section .1800 of this Subchapter shall maintain his or her license on active status at all times as required by Rule .1804 of this Subchapter.

Authority G.S. 93A-3(c); 93A-4(d); 93A-4.1; 93A-6; 93A-9.

21 NCAC 58A .0505 REINSTATEMENT OF EXPIRED LICENSE, REVOKED, SURRENDERED OR SUSPENDED LICENSE

(a) Licenses expired for not more than six months may be reinstated upon the submission of payment of a fifty-five dollar (\$55.00) reinstatement fee. In order to reinstate the license on active status, the person requesting reinstatement shall have obtained the continuing education as is required by Rule .1703 of this Subchapter to change an inactive license to active status. A person reinstating a license on inactive status is not required to have obtained any continuing education in order to reinstate the license; however, in order to subsequently change his or her reinstated license from inactive status to active status, the licensee must satisfy the continuing education requirement prescribed in Rule .1703 of this Subchapter, and be supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section.

(b) Reinstatement of licenses expired for more than six months or provisional broker licenses cancelled pursuant to G.S. 93A-4(a) shall be considered upon the submission of a complete and

accurate application and payment of a fifty-five dollar (\$55.00) reinstatement fee. Applicants must satisfy the Commission that they possess the current knowledge, skills and competence, as well as the truthfulness, honesty and integrity, necessary to function in the real estate business in a manner that protects and serves the public interest. To demonstrate knowledge, skills and competence, the Commission may require the applicants to complete real estate education or pass the license examination or both.

(c) Reinstatement of a revoked license shall be considered upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(d) Reinstatement of a license surrendered under the provisions of G.S. 93A-6(e) shall be considered upon termination of the period of surrender specified in the order approving the surrender and upon the submission of a complete and accurate application and payment of a thirty dollar (\$30.00) fee. Applicants must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(e) When a license is suspended by the Commission, the suspended license shall be restored at the end of the period of active suspension provided that any applicable license renewal fees that accrued during the time of the suspension are paid by the licensee within 60 days from the end of the period of license suspension. In order for the license to be restored on active status, the licensee shall demonstrate that the licensee has satisfied the continuing education requirement for license activation prescribed by Rule .1703 of this Subchapter and that the licensee is supervised by a broker-in-charge in compliance with the requirements of Rule .0506 of this Section, if applicable. Failure to pay the accrued license renewal fees within the time set forth in this Paragraph shall result in expiration of the license effective the last day of the suspension period. A former licensee whose license expires under this Paragraph and who thereafter seeks reinstatement must satisfy the same requirements as those prescribed in Paragraph (b) of this Rule for reinstatement of licenses expired for more than six months.

(f) Whenever a license is reinstated by the Commission following expiration for more than six months, ~~cancellation~~, revocation, or voluntary surrender, the date of licensure for the licensee shall be the date of reinstatement and not the date of original licensure.

Authority G.S. 93A-3(c); 93A-4(c),(d); 93A-4.1.

21 NCAC 58A .0510 LICENSING OF PERSONS LICENSED IN ANOTHER JURISDICTION

(a) The Commission may fully exempt from its license examination requirement and issue broker licenses by reciprocity to applicants who have otherwise satisfied the requirements of G.S. 93A-4 and who are residents of and hold active licenses in the following jurisdictions: Arkansas, Connecticut, Georgia, Iowa, Louisiana, Mississippi, Nebraska, South Carolina, Tennessee and West Virginia. The Commission shall

discontinue broker licensing by reciprocity effective February 29, 2012. On and after March 1, 2012, licensees who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, revoked or surrendered pursuant to G.S. 93A-6, so long as the license is continuously renewed or is reinstated within six months of expiration. A person who was previously licensed in North Carolina by reciprocity and who seeks reinstatement of that license after the license has been expired for more than six months, suspended, revoked or surrendered shall be required to satisfy the requirements described in Rule .0505 of this Section.

(b) Effective March 1, 2012, persons applying for a North Carolina broker license who hold a current real estate license that has been on active status within the previous three years in another state of the United States, a United States territory or possession or a Canadian jurisdiction shall be required to meet the licensing requirements prescribed in G.S. 93A-4 except that such persons shall be exempt from the "national" section of the North Carolina real estate license examination, but shall be required to pass the "state" section of that examination.

Authority G.S. 93A-3(c); 93A-4(b),(c),(d); 93A-4.1; 93A-9(a).

SECTION .0600 - REAL ESTATE COMMISSION HEARINGS

21 NCAC 58A .0616 PROCEDURES FOR REQUESTING HEARINGS WHEN APPLICANT'S CHARACTER IS IN QUESTION

(a) When the moral character of an applicant for licensure or approval is in question, the applicant shall not be licensed or approved until the applicant has affirmatively demonstrated that the applicant possesses the requisite truthfulness, honesty, and integrity. For the purposes of this Rule, applicant means any person or entity making application for licensure as a real estate broker or for licensure or approval as a prelicensing or continuing education instructor, director, coordinator, school or sponsor. When the applicant is an entity, it shall be directed and controlled by persons who are truthful and honest and who possess integrity.

(b) When the character of an applicant is in question, the Commission shall defer action upon the application until the applicant is notified by letter. The letter informing the applicant that his or her moral character is in question shall be sent by certified mail, return receipt requested, to the address shown upon the application. The applicant shall have 60 days from the date of receipt of this letter to request a hearing before the Commission. If the applicant fails to request a hearing within this time or if a properly addressed letter is returned to the Commission undelivered, applicant's right to a hearing shall be considered waived and the application shall be deemed denied. If the applicant makes a timely request for a hearing in accordance with the provisions of this Rule, the Commission shall provide the applicant with a Notice of Hearing and hearing as required by ~~G.S. 150B, Article 3.~~ G.S. 150B, Article 3A.

(c) Nothing in this Rule shall be interpreted to prevent an unsuccessful applicant from reapplying for licensure or approval if such application is otherwise permitted by law.

Authority G.S. 93A-4.

SECTION .1900 - POST-LICENSING EDUCATION

21 NCAC 58A .1902 POSTLICENSING EDUCATION REQUIREMENT

(a) The 90 classroom hour postlicensing education program shall consist of three 30 classroom hour courses prescribed by the Commission which may be taken in any sequence. A provisional broker as described in G.S. 93A-4(a1) or G.S. 93A-4.3(d) must satisfactorily complete at least one of the 30-hour courses during each of the first three years following the date of his or her initial licensure as a broker in order to retain his or her eligibility to actively engage in real estate brokerage. Upon completion of all three courses by a provisional broker, the provisional status of the broker's license shall be terminated by the Commission. The three courses shall be devoted to:

- (1) real estate brokerage relationships and responsibilities;
- (2) real estate contracts and transactions; and
- (3) specialized topics, including commercial real estate, rental management, real estate finance, real estate appraisal, real estate development, and real estate regulation.

(b) If a provisional broker as describe in G.S. 93A-4(a1) or G.S. 93A-4.3(d) fails to complete the required postlicensing education described in paragraph (a) of this Rule by the end of either the first or second year following the date of his or her initial licensure as a broker, his or her license shall be placed on inactive status. Between the end of the first year after initial licensure and the end of the third year after initial licensure, a provisional broker who is subject of the postlicensing education requirement and who desires to activate a license that is on inactive status shall make up any postlicensing education deficiency as well as satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter, satisfy the requirement for supervision by a broker-in-charge described in Rule .0506 of this Subchapter and file with the Commission a request for license activation as described in Rule .0504 of this Subchapter.

(c) If a provisional broker as described in G.S. 93A-4(a1) or G.S. 93A-4.3(d) fails to complete all three postlicensing courses within three years following the date of his or her initial licensure, his or her license shall be ~~cancelled and, in order to reinstate such license, the former broker must satisfy the requirements described in G.S. 93A-04(a1) and Rule .0505 of this Subchapter.~~ placed on inactive status. In order to activate the license, the provisional broker shall demonstrate completion of all three postlicensing courses within the previous three years, which will terminate the provisional status of the broker's license, and shall satisfy the continuing education requirements for license activation described in Rule .1703 of this Subchapter.

Authority G.S. 93A-4; 93A-4(a1).

21 NCAC 58A .1903 EXTENSIONS OF TIME TO COMPLETE POSTLICENSING EDUCATION

A provisional broker as described in G.S. 93A-4(a1) or G.S. 93A-4.3(d) may request and be granted an extension of time to

satisfy the postlicensing education requirement for ~~the first and second years~~ any of the first three years following the date of his or her initial licensure as a broker if the licensee provides evidence satisfactory to the Commission that he or she was unable to obtain the necessary education due to an incapacitating illness or other circumstance which existed for a substantial portion of the year in question and which constituted a severe and verifiable hardship such that to comply with the education requirement would have been impossible or unreasonably burdensome. ~~The Commission shall in no case grant an extension of time to satisfy the postlicensing education requirement that extends beyond the end of the third year after initial licensure as a broker.~~ The Commission also shall not grant an extension of time when the reason for the request is a business or personal conflict or when, in the opinion of the Commission, the principal reason for the provisional broker's failure to obtain the required education in a timely manner was unreasonable delay on the part of the provisional broker in obtaining such education. If an extension of time is granted, the provisional broker may retain his or her license on active status until expiration of the extension period, but the license shall be automatically changed to inactive status at the end of the extension period unless the licensee obtains the required postlicensing education prior to that time. If an extension of time is not granted, the provisional broker's license shall be treated as described in Rule .1902(b) or (c) of this Section. A request for an extension of time must be submitted on a form prescribed by the Commission.

Authority G.S. 93A-4.

SUBCHAPTER 58C - REAL ESTATE PRELICENSING EDUCATION

SECTION .0200 - PRIVATE REAL ESTATE SCHOOLS

21 NCAC 58C .0207 FACILITIES AND EQUIPMENT

(a) All school facilities and equipment shall be in compliance with all applicable local, state and federal laws and regulations regarding health, safety and welfare, including the Americans with Disabilities Act and other laws relating to accessibility standards for places of public accommodation. Schools shall furnish the Commission with inspection reports from appropriate local building, health and fire inspectors upon request of the Commission.

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

(c) Classrooms shall ~~contain, at a minimum, an overhead projector and~~ contain student desks or worktables sufficient to accommodate all students enrolled in a ~~course.~~ course and shall have the capability for instructors to make electronic visual presentations.

(d) Classroom facilities must be in a fixed building. No bus, van, tractor-trailer or other motor vehicle shall be used as a classroom facility.

Authority G.S. 93A-4(a),(d); 93A-33.

SECTION .0600 - PRELICENSING AND POSTLICENSING INSTRUCTORS

21 NCAC 58C .0603 APPLICATION AND CRITERIA FOR ORIGINAL APPROVAL

(a) An individual seeking original approval as a prelicensing and postlicensing course instructor shall make application on a form provided by the Commission. An applicant who is not a resident of North Carolina shall also file with the application a consent to service of process and pleadings. No application fee is required. All required information regarding the applicant's qualifications shall be submitted.

(b) An instructor applicant shall demonstrate that he or she possesses good moral character as set out in G.S. 93A-4(b) and the following qualifications or other qualifications found by the Commission to be equivalent to the following qualifications: a current North Carolina real estate broker license that is not on provisional status; a current continuing education record; three years active full-time experience in general real estate brokerage, including substantial experience in real estate sales and at least one year of general brokerage experience in North Carolina, within the previous seven years; and 60 semester hours of college-level education at an institution accredited by the Southern Association of Colleges and Schools or any other college accrediting body recognized by the U.S. Department of Education. For purposes of this Rule, substantial experience is experience which is material, valuable, and worthwhile and not nominal, occasional, or intermittent. The Commission shall consider teaching experience at the secondary or post-secondary level in lieu of a portion of the brokerage experience requirement.

(c) In addition to the qualification requirements stated in Paragraph (b) of this Rule, an applicant shall also demonstrate completion of the Commission's new instructor seminar within three years prior to the date of application and shall submit a one-hour video recording which depicts the applicant teaching a real estate prelicensing or postlicensing course topic and which demonstrates that the applicant possesses the basic teaching skills described in Rule .0604 of this Section. The new instructor seminar requirement shall be waived upon a finding by the Commission that the applicant possesses comparable instructor training, three years full-time experience teaching real estate pre-licensing courses in another state within the previous five years, or other equivalent qualifications. The video recording shall comply with the requirements specified in Rule .0605(c) of this Section. An applicant who is a Commission-approved continuing education update course instructor under Subchapter E, Section .0200 of this Chapter or who holds the Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators Association or an equivalent real estate instructor certification shall be exempt from the requirement to demonstrate satisfactory teaching skills by submission of a digital video disc (DVD) or videotape. An applicant who is qualified under Paragraph (b) of this Rule but who has not satisfied these additional requirements at the time of application shall be approved and granted a six-month grace period to complete these requirements. The approval of any instructor who is granted such six-month period to complete the requirements shall automatically expire on the last day of the

period if the instructor has failed to satisfy his or her qualification deficiencies and the period has not been extended by the Commission. The Commission shall extend the six-month period for up to three additional months when the Commission requires more than 30 days to review and act on a submitted video recording, when the expiration date of the period occurs during a course being taught by the instructor, or when the Commission determines that such extension is otherwise warranted by exceptional circumstances which are outside the instructor's control or when failure to extend the grace period could result in harm or inconvenience to students, licensees, or other innocent persons. An individual applying for instructor approval who ~~within the previous three years~~ previously allowed the six-month grace period to satisfy the requirements stated in this Paragraph, but did not satisfy such requirements within the allowed grace period, shall not be allowed the grace period.

Authority G.S. 93A-4; 93A-33; 93A-34.

SUBCHAPTER 58E - REAL ESTATE CONTINUING EDUCATION

SECTION .0200 - UPDATE COURSE INSTRUCTORS

21 NCAC 58E .0204 RENEWAL OF APPROVAL

(a) Commission approval of update course instructors expires on the third December 31 following issuance of approval. In order to assure continuous approval, approved instructors must file applications for renewal of approval on a form prescribed by the Commission on or before December 1 immediately preceding expiration of their approval. Applicants must satisfy the criteria for original approval, with the exception of the

requirement stated in Rule .0203(d) of this Section, in order to renew their approval.

(b) In order to reinstate an expired instructor approval, the former instructor must file an application on a form provided by the Commission and must satisfy the criteria for original approval set forth in Rule .0203(b) and (c) of this Section. If the applicant's prior instructor approval has been expired for more than one year, the applicant must also satisfy the criteria for original approval set forth in Rule .0203(d) of this Section.

Authority G.S. 93A-3(c); 93A-4A.

SECTION .0500 - COURSE OPERATIONAL REQUIREMENTS

21 NCAC 58E .0507 CLASSROOM FACILITIES

Courses must be conducted in a ~~facility~~ fixed building that provides an appropriate learning environment. No bus, van, tractor-trailer or other motor vehicle shall be used as a classroom facility. At a minimum, the classroom must:

- (1) be of sufficient size to accommodate comfortably all enrolled students;
- (2) be adequately equipped with student desks, worktables with chairs or other seating having a writing surface;
- (3) have adequate light, heat, cooling, ventilation, and public address equipment; ~~and~~
- (4) have the capability for instructors to make electronic presentations; and
- ~~(4)(5)~~ be free of distractions that would disrupt class sessions.

Authority G.S. 93A-3(c); 93A-4A.

TITLE 04 – DEPARTMENT OF COMMERCE

Note: *This emergency rule was adopted under the procedure set out in G.S. 150B-21.1B. Adoption of rule to implement the American Recovery and Reinvestment Act.*

Rule-making Agency: *North Carolina Tax Reform Allocation Committee (the "TRAC")*

Rule Citation: *04 NCAC 01H .0501*

Effective Date: *July 15, 2011*

Findings Reviewed and Approved by the Codifier: *July 7, 2011*

Reason for Action: *Section 1112 of Title 1 of Division B of the American Recovery and Reinvestment Act of 2009 ("ARRA"), Pub. L. No. 111-5, 123 Stat. 115 (2009), amended 26 USC 54D(d) to increase the national bond volume cap authorization for Qualified Energy Conservation Bonds ("QECBs") from \$800 million to \$3.2 billion. Additionally, that section in the ARRA created the availability of "green community programs" as a tool for utilization of QECB capacity. North Carolina general statutes provided that the TRAC is the appropriate state entity to allocate QECB capacity and directed the TRAC to create procedures regarding such allocation. See, e.g., G.S. 143-433.8 and G.S. 143-433. 9(a). Finally, 150B-21.1B provides that "It is the policy of the State...to quickly and efficiently complete the awards of grants and contracts under the ARRA" and provides that ARRA rule-making provisions be "liberally construed to allow agencies maximum flexibility in implementing the ARRA."*

The TRAC has been informed that a substantial number of energy conservation projects are anxiously awaiting the allocation of QECB capacity, and the TRAC is in need of rules in which to allocate such capacity to eligible issuers. As such, it is imperative that QECB capacity be allocated immediately so that energy conservation projects can be commenced.

In any event, the ARRA itself provided in Section 5 ("Emergency Designation") that: "Each amount in this Act is designated as an emergency requirement and necessary to meet emergency needs pursuant to section 204(a) of S. Con. Res. 21 (110th Congress) and section 301 (b)(2) of S. Con. Res. 70 (110th Congress), the concurrent resolutions on the budget for fiscal years 2008 and 2009."

CHAPTER 01 - DEPARTMENTAL RULES

**SUBCHAPTER 01H - PRIVATE ACTIVITY BOND
VOLUME CAPACITY PROGRAM**

**SECTION .0500 - QUALIFIED ENERGY
CONSERVATION BONDS**

**04 NCAC 01H .0501 PROCEDURES AND CRITERIA
FOR ALLOCATION OF QUALIFIED ENERGY
CONSERVATION BONDS**

The North Carolina Tax Reform Allocation Committee (the "Committee") is directed to allocate Qualified Energy Conservation Bond ("QECB") capacity to eligible issuers of such bonds as follows:

- (1) To "large local governments," as such term is used in 26 U.S.C.S. 54D(e)(2) in such amounts and manner as specifically directed by the United States Internal Revenue Service ("IRS") in 26 U.S.C.S. 54D and all relevant implementing notices provided by the IRS (including IRS Notice 2009-29), as may be modified, amended or supplemented. For purposes of calculating the populations of local governments to determine which constitutes a "large local government," the Committee shall use population estimates as of July 1, 2007, as directed by the IRS.
- (2) To "Indian tribal governments," as such term is used in 26 U.S.C.S. 54D(h) in such amounts as may be specifically directed by the IRS in 26 U.S.C.S. 54D and relevant implementing notices provided by the IRS (including IRS Notice 2009-29), as may be modified, amended or supplemented.
- (3) Following the allocations described in Items (1) and (2) of this Rule, the Committee shall allocate the remaining QECB capacity to eligible issuers. Such allocation shall be made by the Committee in its sole discretion, upon completed application by an eligible issuer, and after consideration of any factor the Committee deems relevant in its good faith and discretion, including (without limitation) some or all of the following factors:
 - (a) The ability of the State to ensure that at least 70 percent of the State's allocation is used for government projects, and no more than 30 percent for projects considered QECB private activity bonds under IRS rules, regulations and guidelines;
 - (b) The extent to which the project constitutes an eligible conservation purpose under 26 U.S.C.S. 54D and all relevant implementing notices provided by the IRS (including IRS Notice 2009-29), as may be modified, amended or supplemented;
 - (c) The extent to which the project demonstrates the potential to directly conserve energy;
 - (d) The extent to which the project supports the development or implementation of innovative energy conservation technology;

- (e) The extent to which the project uses renewable resources to produce energy;
- (f) The number of citizens benefiting from the project;
- (g) The estimated number of jobs to be produced by the projects (for private activity allocations) and the amount of QECB authority per job produced;
- (h) The readiness of the project to proceed;
- (i) The certainty of the issuer using the allocation within the estimated timelines;
- (j) The amount of other public and private funding leveraged by the QECB allocation;
- (k) The amount of local community support for the project;
- (l) The best interests of the State of North Carolina with regard to economic development, energy conservation, green initiatives and the general prosperity of the State;
- (m) Whether the unit of local government is in competition with another state for project benefits such as jobs and tax base;
- (n) Whether the availability of the allocation is a crucial part of attracting a new company or keeping an existing company in place;
- (o) Whether the requested allocation will benefit a project for which an eligible issuer is already issuing QECBs;
- (p) The ability of the unit of local government or company benefiting from the QECB to obtain financing and close the issue in a timely manner, including demonstration of a commitment from a bank or other financial institution to purchase or underwrite the QECBs;
- (q) The total amount of capacity available to the Committee for allocation.
- (4) Where required by law, local governments shall coordinate issuance of QECBs with and through the North Carolina Local Government Commission (the "LGC") in the Office of the North Carolina State Treasurer, and shall obtain approval from the LGC for QECB issuance.
- (5) Entities allocated QECB capacity by the Committee and/or entities who issue QECBs shall ensure compliance with all federal and state laws, rules, regulations and requirements applicable to such allocation or issue.

- (6) Entities receiving an allocation under Items (1) and (2) of this Rule ("large local governments" and "Indian tribal governments") have the right to waive and/or reallocate to the State of North Carolina all or a portion of their allocation. Upon the State's receipt of any additional QECB capacity through any such waiver or reallocation, the Committee shall allocate such capacity to eligible issuers in the manner described in Item (3) of this Rule.
- (7) The Committee shall attach such contingencies upon any allocation of QECB capacity made under Item (3) of this Rule as the Committee may deem appropriate, including (without limitation) contingencies relating to a time deadline for issuance of the QECBs pursuant to the allocated capacity and contingencies limiting the use of the allocated QECB capacity for public or private activity bonds.

History Note: Authority G.S. 143-433.6(d); 143-433.8; 143-433.9(a); 150B-21.1B; S.L. 2009-140; S.L. 2009-475; Emergency Adoption Eff. July 15, 2011.

TITLE 07 – DEPARTMENT OF CULTURAL RESOURCES

Rule-making Agency: *Department of Cultural Resources*

Rule Citation: *07 NCAC 04N .0202*

Effective Date: *July 14, 2011*

Findings Reviewed and Approved by the Codifier: *July 6, 2011*

Reason for Action: *The purpose of the amended rule is to add an admission charge to offset the loss of revenue established by House Bill 200 (Session Law 2011-145). Section 21.1 of this legislation establishes the Transportation Museum special fund. The Fund shall be used to pay all costs associated with the operation and maintenance of the North Carolina Transportation Museum. Senate Appropriations Committee Report on the Continuation, Expansion and Capital Budgets (2011 Budget Technical Corrections) transfers the Transportation Museum to 50% receipts-support in FY 2011-12 and total receipts-support in FY 2012-13.*

CHAPTER 04 - DIVISION OF ARCHIVES AND HISTORY

SUBCHAPTER 04N – HISTORIC SITES REGULATIONS

SECTION .0200 - SITE HOURS: ADMISSION FEES

07 NCAC 04N .0202 ADMISSION FEES

- (a) The following sites do not charge an admission fee:
 - (1) Alamance Battleground,

- (2) Aycock Birthplace,
- (3) Bennett Place,
- (4) Bentonville Battleground,
- (5) Brunswick Town,
- (6) Caswell-Neuse,
- (7) Duke Homestead,
- (8) Fort Dobbs,
- (9) Fort Fisher,
- (10) Historic Halifax,
- (11) House in the Horseshoe,
- (12) Polk Memorial,
- (13) Reed Gold Mine,
- (14) Somerset Place,
- ~~(15) Spencer Shops,~~
- ~~(16)~~(15) Town Creek Indian Mound,
- ~~(17)~~(16) Vance Birthplace,
- ~~(18)~~(17) Charlotte Hawkins Brown Memorial,
- ~~(19)~~(18) Horne Creek Living History Farm.

(b) The following site charges an admission fee of one dollar (\$1.00) for adults, fifty cents (\$0.50) for children, and one half off the regular admission price for groups of ten or more: Wolfe Memorial.

(c) The following site charges an admission fee of one dollar (\$1.00) for adults, twenty-five cents (\$0.25) for children: James Iredell House.

(d) The following site charges an admission fee of one dollar (\$1.00) for adults, fifty cents (\$0.50) for children and one half

off the regular admission price for groups of ten or more to each major historic structure:

- (1) Historic Bath, Bonner House;
- (2) Historic Bath, Palmer-Marsh House.

(e) The following site charges an admission fee of three dollars (\$3.00) for adults, one dollar and fifty cents (\$1.50) for students, two dollars (\$2.00) for senior citizens, and fifty cents (\$0.50) off the regular admission price for groups of ten or more: Elizabeth II.

(f) The North Carolina Transportation Museum at Spencer shall charge admission fees as follows:

- (1) General Admission: Five dollars (\$5.00) for adults; four dollars (\$4.00) for seniors and active military; three dollars (\$3.00) students (ages 3-12); and free for children (ages 0-2).
- (2) Group Admission (15 or more visitors): Four dollars (\$4.00) for adults; three dollars and fifty cents (\$3.50) for seniors and active military; one dollar and fifty cents (\$1.50) for students (ages 3-12); and free for children (ages 0-2).

History Note: Authority G.S. 121-4(8); 121-4(9); 143B-62(2)d.; Eff. February 1, 1985; Amended Eff. January 1, 1990; June 1, 1989; Emergency Amendment Eff. July 14, 2011.

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 June 16, 2011.

**REGISTER CITATION TO THE
NOTICE OF TEXT****MEDICAL CARE COMMISSION**

<u>Medical Ambulance/Evacuation Bus: Vehicle and ...</u>	10A	NCAC	13P	.0217*	25:08 NCR
<u>Pediatric Specialty Care Ground Ambulance:...</u>	10A	NCAC	13P	.0218*	25:08 NCR
<u>Staffing for Medical Ambulance/Evacuation Bus...</u>	10A	NCAC	13P	.0219	25:08 NCR
<u>Staffing for Pediatric Specialty Care Ground...</u>	10A	NCAC	13P	.0220	25:08 NCR

MENTAL HEALTH, COMMISSION FOR

<u>Schedule III</u>	10A	NCAC	26F	.0104*	n/a G.S. 90-88(d)
<u>Schedule IV</u>	10A	NCAC	26F	.0105*	n/a G.S. 90-88(d)

INSURANCE, DEPARTMENT OF

<u>Applicability</u>	11	NCAC	16	.0101*	25:18 NCR
<u>Loss Reserves</u>	11	NCAC	16	.0102	25:18 NCR
<u>Professional Liability Insurance</u>	11	NCAC	16	.0104	25:18 NCR
<u>Minimum Incurred Loss Ratio; Alternate Maximum</u>	11	NCAC	16	.0501*	25:18 NCR
<u>General Submission Requirements</u>	11	NCAC	16	.0503*	25:18 NCR

PRIVATE PROTECTIVE SERVICES BOARD

<u>Application for Licenses and Trainee Permits</u>	12	NCAC	07D	.0201*	25:08 NCR
<u>Application for Unarmed Security Guard Regis...</u>	12	NCAC	07D	.0701*	25:08 NCR
<u>Experience Requirements for Courier License</u>	12	NCAC	07D	.1201	25:08 NCR

LABOR, DEPARTMENT OF

<u>Definitions</u>	13	NCAC	13	.0101*	25:18 NCR
<u>Incorporated - Standards</u>	13	NCAC	13	.0103*	25:18 NCR
<u>Inspector Qualifications</u>	13	NCAC	13	.0202*	25:18 NCR
<u>North Carolina Commission</u>	13	NCAC	13	.0203	25:18 NCR
<u>Conflict of Interest</u>	13	NCAC	13	.0204*	25:18 NCR
<u>Insurance Companies to Notify Chief Inspector</u>	13	NCAC	13	.0208*	25:18 NCR
<u>Installers to Notify Chief Inspectors</u>	13	NCAC	13	.0209*	25:18 NCR
<u>Preparation for Inspection</u>	13	NCAC	13	.0212*	25:18 NCR
<u>Extended Pressure Equipment Operating</u>	13	NCAC	13	.0214*	25:18 NCR
<u>Inspection Documentation</u>	13	NCAC	13	.0301*	25:18 NCR
<u>Design and Construction Standards</u>	13	NCAC	13	.0401*	25:18 NCR
<u>Controls and Safety Devices</u>	13	NCAC	13	.0404	25:18 NCR
<u>High Pressure or Temperature Limit Control</u>	13	NCAC	13	.0406	25:18 NCR
<u>Gauge Glasses and Water Columns</u>	13	NCAC	13	.0408	25:18 NCR

APPROVED RULES

<u>Automatic Low-Water Fuel Cutoff Controls and Water-Feedin...</u>	13	NCAC	13	.0409*	25:18 NCR
<u>Temperature Gauges/Thermometers/Temperature Sensors</u>	13	NCAC	13	.0410	25:18 NCR
<u>Valves, Drains and Bottom Blowoffs</u>	13	NCAC	13	.0411*	25:18 NCR
<u>Expansion Tanks</u>	13	NCAC	13	.0412	25:18 NCR

WILDLIFE RESOURCES COMMISSION

<u>Open Seasons: Creel and Size Limits</u>	15A	NCAC	10C	.0305*	25:03 NCR
<u>Manner of Taking Non-game Fishes: Purchase and Sale</u>	15A	NCAC	10C	.0401*	25:17 NCR
<u>Town of Emerald Isle</u>	15A	NCAC	10F	.0376*	25:17 NCR

CHIROPRACTIC EXAMINERS, BOARD OF

<u>Escrow Account</u>	21	NCAC	10	.0105	25:14 NCR
<u>Renewal of License</u>	21	NCAC	10	.0205*	25:14 NCR
<u>Medical College Transfer Credits</u>	21	NCAC	10	.0212	25:14 NCR

ELECTRICAL CONTRACTORS, BOARD OF EXAMINERS FOR

<u>Reference to State Building and Elevator Codes</u>	21	NCAC	18B	.0102*	25:15 NCR
<u>Organization</u>	21	NCAC	18B	.0103*	25:15 NCR
<u>Joint Resolution and Agreements</u>	21	NCAC	18B	.0106	25:15 NCR
<u>Examinations</u>	21	NCAC	18B	.0204*	25:15 NCR
<u>Minimum Passing Grade</u>	21	NCAC	18B	.0205	25:15 NCR
<u>Regular Examinations</u>	21	NCAC	18B	.0206	25:15 NCR
<u>Application for Regular Examinations</u>	21	NCAC	18B	.0207	25:15 NCR
<u>Specially Arranged Examinations</u>	21	NCAC	18B	.0208	25:15 NCR
<u>Fees</u>	21	NCAC	18B	.0209*	25:15 NCR
<u>Applications Duly Filed</u>	21	NCAC	18B	.0210*	25:15 NCR
<u>Waiting Period Between Examinations</u>	21	NCAC	18B	.0211*	25:15 NCR
<u>License Name Requirements</u>	21	NCAC	18B	.0402*	25:15 NCR
<u>Licenses Expiring and Individuals Qualified/July 1,...</u>	21	NCAC	18B	.0601	25:15 NCR
<u>Qualified Individuals Listed Prior to July 1, 1970</u>	21	NCAC	18B	.0602	25:15 NCR
<u>Scope of SP-SFD License</u>	21	NCAC	18B	.0803*	25:15 NCR
<u>Scope of SP-FA/LV License</u>	21	NCAC	18B	.0804*	25:15 NCR
<u>Malpractice Further Defined</u>	21	NCAC	18B	.0909*	25:15 NCR
<u>Minimum Requirements for Course Sponsor Appr</u>	21	NCAC	18B	.1102*	25:15 NCR
<u>Minimum Requirements for Course Approval</u>	21	NCAC	18B	.1103*	25:15 NCR

IRRIGATION CONTRACTORS' LICENSING BOARD

<u>Direct Supervision</u>	21	NCAC	23	.0101*	25:13 NCR
<u>Licensing</u>	21	NCAC	23	.0103*	25:13 NCR
<u>Continuing Education</u>	21	NCAC	23	.0104*	25:13 NCR
<u>Notice of Hearing: Answer</u>	21	NCAC	23	.0201	25:13 NCR
<u>Right to Hearing</u>	21	NCAC	23	.0202	25:13 NCR
<u>Location of Hearing</u>	21	NCAC	23	.0203	25:13 NCR

APPROVED RULES

<u>Intervention; Discovery</u>	21	NCAC	23	.0204*	25:13 NCR
<u>Subpoenas</u>	21	NCAC	23	.0205	25:13 NCR
<u>Conduct of Hearing</u>	21	NCAC	23	.0206	25:13 NCR
<u>Decision of Board</u>	21	NCAC	23	.0207*	25:13 NCR
<u>Irrigation Record Drawing</u>	21	NCAC	23	.0301*	25:13 NCR
<u>Piping</u>	21	NCAC	23	.0402*	25:13 NCR
<u>Water Source</u>	21	NCAC	23	.0403*	25:13 NCR
<u>Drip/Microirrigation</u>	21	NCAC	23	.0405*	25:13 NCR
<u>Irrigation System Disclosure Checklist</u>	21	NCAC	23	.0407*	25:13 NCR
<u>General Requirements</u>	21	NCAC	23	.0501*	25:13 NCR
<u>Site Considerations</u>	21	NCAC	23	.0502*	25:13 NCR
<u>Water Supply</u>	21	NCAC	23	.0503*	25:13 NCR
<u>System Layout</u>	21	NCAC	23	.0504*	25:13 NCR
<u>Trenching and Piping</u>	21	NCAC	23	.0505*	25:13 NCR
<u>Electrical</u>	21	NCAC	23	.0506*	25:13 NCR
<u>Grounding</u>	21	NCAC	23	.0507*	25:13 NCR
<u>Sprinklers</u>	21	NCAC	23	.0508*	25:13 NCR
<u>Controller</u>	21	NCAC	23	.0509*	25:13 NCR
<u>Initial System Start Up</u>	21	NCAC	23	.0510*	25:13 NCR
<u>Owner's Manual</u>	21	NCAC	23	.0511*	25:13 NCR
<u>Purpose</u>	21	NCAC	23	.0601*	25:13 NCR
<u>Basic System Maintenance Practices</u>	21	NCAC	23	.0602*	25:13 NCR
<u>Scheduling</u>	21	NCAC	23	.0603*	25:13 NCR
<u>Fee Schedule</u>	21	NCAC	23	.0701*	25:13 NCR

MARRIAGE AND FAMILY THERAPY LICENSURE BOARD

<u>Review Procedure</u>	21	NCAC	31	.0202*	25:16 NCR
<u>Written Examination</u>	21	NCAC	31	.0301	25:16 NCR
<u>Reporting of Scores</u>	21	NCAC	31	.0302	25:16 NCR
<u>First Reexamination</u>	21	NCAC	31	.0303	25:16 NCR
<u>Licensure Renewal Form</u>	21	NCAC	31	.0401*	25:16 NCR
<u>Ongoing Supervision</u>	21	NCAC	31	.0502*	25:16 NCR
<u>Equivalency</u>	21	NCAC	31	.0503*	25:16 NCR
<u>Alternative to Clinical Practicum</u>	21	NCAC	31	.0504	25:16 NCR
<u>Direct Client Contact</u>	21	NCAC	31	.0506*	25:16 NCR
<u>Ethical Principles</u>	21	NCAC	31	.0609*	25:16 NCR
<u>Requirements for Continuing Education</u>	21	NCAC	31	.0701*	25:16 NCR
<u>Licensed Marriage and Family Therapy Associate</u>	21	NCAC	31	.0802*	25:16 NCR
<u>Reciprocal License</u>	21	NCAC	31	.0901	25:16 NCR
<u>Fees</u>	21	NCAC	31	.1001	25:16 NCR
<u>Fund Suspension</u>	21	NCAC	31	.1002	25:16 NCR

PHARMACY, BOARD OF

<u>Return of Outdated Drugs</u>	21	NCAC	46	.2901*	25:18 NCR
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PODIATRY EXAMINERS, BOARD OF

<u>Licensing</u>	21	NCAC 52	.0206*	25:16 NCR
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SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

<u>Definitions</u>	21	NCAC 63	.0102*	25:17 NCR
<u>General</u>	21	NCAC 63	.0106	25:17 NCR
<u>Renewal of Certification</u>	21	NCAC 63	.0406	25:17 NCR
<u>Reporting of Disciplinary Actions</u>	21	NCAC 63	.0609*	25:17 NCR

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

**10A NCAC 13P .0217 MEDICAL
AMBULANCE/EVACUATION BUS: VEHICLE AND
EQUIPMENT REQUIREMENTS**

(a) A Medical Ambulance/Evacuation bus is a multiple passenger vehicle configured and medically equipped for emergency and non-emergency transport of at least three stretcher bound patients with traumatic or medical conditions.

(b) To be permitted as a Medical Ambulance/Evacuation Bus, a vehicle shall have:

- (1) a non-light penetrating sliding curtain installed behind the driver from floor-to-ceiling and from side-to-side to keep all light from the patient compartment from reaching the driver's area during vehicle operation at night;
- (2) patient care equipment and supplies as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," which is incorporated by reference, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle;
- (3) five pound fire extinguishers mounted in a quick release bracket located inside the patient compartment at the front and rear of the vehicle that are either a dry chemical or all-purpose type and have pressure gauges;
- (4) monitor alarms installed inside the patient compartment at the front and rear of the vehicle to warn of unsafe buildup of carbon monoxide;
- (5) the name of the EMS provider permanently displayed on each side of the vehicle;
- (6) reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle;
- (7) emergency warning lights and audible warning devices mounted on the vehicle as required by G.S. 20-125 in addition to those required by Federal Motor Vehicle Safety Standards. All warning devices shall function properly;

- (8) no structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the vehicle;
- (9) an operational two-way radio that:
 - (A) is mounted to the ambulance and installed for safe operation and controlled by the ambulance driver;
 - (B) has sufficient range, radio frequencies, and capabilities to establish and maintain two-way voice radio communication from within the defined service area of the EMS System to the emergency communications center or PSAP designated to direct or dispatch the deployment of the ambulance;
 - (C) is capable of establishing two-way voice radio communication from within the defined service area to the emergency department of the hospital(s) where patients are routinely transported and to facilities that provide on-line medical direction to EMS personnel;
 - (D) is equipped with a radio control device mounted in the patient compartment capable of operation by the patient attendant to receive on-line medical direction; and
 - (E) is licensed or authorized by the FCC;
- (10) permanently installed heating and air conditioning systems; and
- (11) a copy of the EMS System patient care treatment protocols.
- (c) A Medical Ambulance/Evacuation Bus shall not use a radiotelephone device such as a cellular telephone as the only source of two-way radio voice communication.
- (d) Communication instruments or devices such as data radio, facsimile, computer, or telemetry radio shall be in addition to the mission dedicated dispatch radio and shall function independently from the mission dedicated radio.
- (e) The EMS System medical director shall designate the combination of medical equipment as required in Subparagraph (b)(2) of this Rule that is carried on a mission based on anticipated patient care needs.
- (f) The ambulance permit for this vehicle shall remain in effect for two years unless any of the following occurs:

- (1) The Department imposes an administrative sanction which specifies permit expiration;
- (2) The EMS Provider closes or goes out of business;
- (3) The EMS Provider changes name or ownership; or
- (4) Failure to comply with the applicable Paragraphs of this Rule.

History Note: Authority G.S. 131E-157(a); 143-508(d)(8); Eff. July 1, 2011.

10A NCAC 13P .0218 PEDIATRIC SPECIALTY CARE GROUND AMBULANCE: VEHICLE AND EQUIPMENT REQUIREMENTS

(a) A Pediatric Specialty Care Ground Ambulance is an ambulance used to transport only those patients 18 years old or younger with traumatic or medical conditions or for whom the need for specialty care or emergency or non-emergency medical care is anticipated during an inter-facility or discharged patient transport.

(b) To be permitted as a Pediatric Specialty Care Ground Ambulance, a vehicle shall have:

- (1) a patient compartment that meets the following interior dimensions:
 - (A) the length, measured on the floor from the back of the driver's compartment, driver's seat or partition to the inside edge of the rear loading doors, is at least 102 inches; and
 - (B) the height is at least 48 inches over the patient area, measured from the center of the floor, exclusive of cabinets or equipment;
- (2) patient care equipment and supplies as defined in the "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection," which is incorporated by reference, including subsequent amendments and editions. This document is available from the OEMS, 2707 Mail Service Center, Raleigh, North Carolina 27699-2707, at no cost. The equipment and supplies shall be clean, in working order, and secured in the vehicle;
- (3) one fire extinguisher mounted in a quick release bracket that is either a dry chemical or all-purpose type and has a pressure gauge;
- (4) the name of the EMS Provider permanently displayed on each side of the vehicle;
- (5) reflective tape affixed to the vehicle such that there is reflectivity on all sides of the vehicle;
- (6) emergency warning lights and audible warning devices mounted on the vehicle as required by G.S. 20-125 in addition to those required by Federal Motor Vehicle Safety Standards. All warning devices shall function properly;

- (7) no structural or functional defects that may adversely affect the patient, the EMS personnel, or the safe operation of the vehicle;
- (8) an operational two-way radio that:
 - (A) is mounted to the ambulance and installed for safe operation and controlled by the ambulance driver;
 - (B) has sufficient range, radio frequencies, and capabilities to establish and maintain two-way voice radio communication from within the defined service area of the EMS System to the emergency communications center or PSAP designated to direct or dispatch the deployment of the ambulance;
 - (C) is capable of establishing two-way voice radio communication from within the defined service area to the emergency department of the hospital(s) where patients are routinely transported and to facilities that provide on-line medical direction to EMS personnel;
 - (D) is equipped with a radio control device mounted in the patient compartment capable of operation by the patient attendant to receive on-line medical direction; and
 - (E) is licensed or authorized by the FCC;
- (9) permanently installed heating and air conditioning systems; and
- (10) a copy of the EMS System patient care treatment protocols.

(c) Pediatric Specialty Care Ground ambulances shall not use a radiotelephone device such as a cellular telephone as the only source of two-way radio voice communication.

(d) Communication instruments or devices such as data radio, facsimile, computer, or telemetry radio shall be in addition to the mission dedicated dispatch radio and shall function independently from the mission dedicated radio.

(e) The Specialty Care Transport Program medical director shall designate the combination of medical equipment as required in Subparagraph (b)(2) of this Rule that is carried on a mission based on anticipated patient care needs.

(f) The ambulance permit for this vehicle shall remain in effect for two years unless any of the following occurs:

- (1) The Department imposes an administrative sanction which specifies permit expiration;
- (2) The EMS Provider closes or goes out of business;
- (3) The EMS Provider changes name or ownership; or
- (4) Failure to comply with the applicable paragraphs of this Rule.

History Note: Authority G.S. 131E-157(a); 143-508(d)(8); Eff. July 1, 2011.

10A NCAC 13P .0219 STAFFING FOR MEDICAL AMBULANCE/EVACUATION BUS VEHICLES

Medical Ambulance/Evacuation Bus Vehicles are exempt from the requirements of G.S. 131E-158(a). The EMS System Medical Director shall determine the combination and number of EMT, EMT-Intermediate, or EMT-Paramedic personnel that are sufficient to manage the anticipated number and severity of injury or illness of the patients transported in the Medical Ambulance/Evacuation Bus vehicle.

History Note: Authority G.S. 131E-158(b); Eff. July 1, 2011.

10A NCAC 13P .0220 STAFFING FOR PEDIATRIC SPECIALTY CARE GROUND AMBULANCES

Pediatric Specialty Care Ground Ambulances operated within the approved Specialty Care Transport Program dedicated for inter-facility transport of non-emergent, emergent, and critically ill or injured or discharged Neonatal and Pediatric patients are exempt from the requirements of G.S. 131E-158(a). The Specialty Care Program Medical Director shall determine the staffing that is sufficient to manage the severity of illness or injury of the patients transported in the Pediatric Specialty Care Ground Ambulance.

History Note: Authority G.S. 131E-158(b); Eff. July 1, 2011.

10A NCAC 26F .0104 SCHEDULE III

(a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated and as specified in G.S. 90-91. Each drug or substitute has been assigned the Drug Enforcement Administration controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.13.

(b) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Embutramide to Schedule III for Depressants.

(c) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds Buprenorphine to Schedule III for Narcotic Drugs.

(d) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds for anabolic steroids, including their salts, esters and ethers:

- (1) Boldione (androsta-1,4-diene-3,17-dione);
- (2) Desoxymethyltestosterone (17[alpha]-methyl-5[alpha]-androst-2-en-17[beta]-ol) (a.k.a., madol); and
- (3) 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione).

History Note: Authority G.S. 90-88; 90-91; 143B-147; Eff. June 30, 1978; Amended Eff. July 1, 2011; June 1, 2009; August 1, 2002; August 1, 1991; December 1, 1987; August 1, 1987; July 1, 1982.

10A NCAC 26F .0105 SCHEDULE IV

(a) Schedule IV shall consist of the drugs and other substances by whatever official name, common or usual name, chemical name or brand name designated and as specified in G.S. 90-92. Each drug or substance has been assigned the Drug Enforcement Administration controlled substances code number set forth in the Code of Federal Regulations, Title 21, Section 1308.14.

(b) The Commission for MH/DD/SAS may add, delete or reschedule substances within Schedules I-VI as specified in G.S. 90-88.

(c) As specified in G.S. 90-88, the Commission for MH/DD/SAS adds the following substances within Schedule IV for Depressants:

- (1) Dichloralphenazone;
- (2) Zopiclone; and
- (3) Fosporopol.

History Note: Authority G.S. 90-88; 90-92; 143B-147; Eff. June 30, 1978; Amended Eff. July 1, 1993; January 1, 1989; December 1, 1987; August 1, 1987; Temporary Amendment Eff. May 28, 1998; Temporary Amendment Expired March 12, 1999; Amended Eff. August 1, 2000; Temporary Amendment Eff. January 1, 2002; February 15, 2001; Amended Eff. July 1, 2011; November 1, 2005; April 1, 2003; August 1, 2002.

TITLE 11 – DEPARTMENT OF INSURANCE**11 NCAC 16 .0101 APPLICABILITY**

The following Rules describe statistical data that shall be submitted to the Actuarial Services Division on a regular basis.

- (1) 11 NCAC 16 .0103 applies to all companies that write North Carolina nonfleet private passenger automobile insurance and to all statistical organizations that collect data relating to that line of insurance.
- (2) 11 NCAC 16 .0105 applies to all companies that provide professional liability insurance to more than two percent of the insured physicians and surgeons in North Carolina.
- (3) 11 NCAC 16 .0106 applies to all companies that write North Carolina credit property insurance.
- (4) 11 NCAC 16 .0107 applies to all companies that write North Carolina nonfiling insurance.

History Note: Authority G.S. 58-2-40(1); 58-2-190; Eff. December 1, 1990; Amended Eff. July 1, 2011.

11 NCAC 16 .0102 LOSS RESERVES

History Note: Authority G.S. 58-2-40; 58-2-190; Eff. December 1, 1990; Amended Eff. August 1, 1991;

Repealed Eff. July 1, 2011.

**11 NCAC 16 .0104 PROFESSIONAL LIABILITY
INSURANCE**

*History Note: Authority G.S. 58-2-170; 58-2-190;
Eff. December 1, 1990;
Repealed Eff. July 1, 2011.*

**11 NCAC 16 .0501 MINIMUM INCURRED LOSS
RATIO**

The premium rates charged for credit unemployment insurance shall be reasonable in relation to the benefits provided as indicated by a minimum annual incurred loss ratio of 60%.

*History Note: Authority G.S. 58-2-40; 58-57-110(a);
Eff. January 1, 1994;
Amended Eff. November 1, 2011.*

**11 NCAC 16 .0503 GENERAL SUBMISSION
REQUIREMENTS**

(a) All credit unemployment minimum incurred loss ratio compliance demonstrations shall be submitted to and stamped received by the Life and Health Division. All submitted demonstrations shall be submitted no later than March 31 of each calendar year, to become effective during the calendar year of submission, with the exception of submitted demonstrations for use in calendar years 1994 through 1996.

(b) All experience used in the demonstration of compliance shall be only North Carolina experience.

(c) All compliance demonstrations shall be submitted, in accordance with this Rule, to the Life and Health Division each succeeding year for reevaluation.

(d) The following information shall be submitted in regards to the qualified actuary:

- (1) Name of the qualified actuary;
- (2) Professional designations of the qualified actuary, e.g. A.S.A., F.S.A., or M.A.A.A.;
- (3) Name and address of the company or actuarial consulting firm employing the qualified actuary; and
- (4) Telephone number (including extension) of the qualified actuary.

(e) The qualified actuary shall include in the credit unemployment rate request a written statement certifying the following:

- (1) That the qualified actuary (name of qualified actuary) has reviewed Rules .0501 through .0504 of this Section;
- (2) That the qualified actuary certifies that all submitted calculations and data preparation are in conformity with Rules .0501 through .0504 of this Section; and
- (3) All data submitted are accurate and in conformity with Rule .0502 of this Section.

*History Note: Authority G.S. 58-2-40; 58-57-70; 58-57-110(a);
Eff. January 1, 1994;
Amended Eff. November 1, 2011.*

TITLE 12 – DEPARTMENT OF JUSTICE

**12 NCAC 07D .0201 APPLICATION FOR LICENSES
AND TRAINEE PERMITS**

(a) Each applicant for a license or trainee permit shall submit an original and one copy of the application to the Board. The application shall be accompanied by:

- (1) two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) one head and shoulders photograph of the applicant of acceptable quality for identification, one inch by one inch in size, taken within six months prior to submission;
- (3) certified statement of the result of a criminal history records search by the appropriate governmental authority housing criminal record information or clerk of superior court in each county where the applicant has resided within the immediately preceding 60 months;
- (4) the applicant's non-refundable application fee; and
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) Applications for trainee permits shall be accompanied by a notarized statement on a form provided by the Board and signed by the applicant and his prospective supervisor, stating that the trainee applicant shall at all times work with and under the direct supervision of that supervisor.

(c) Private investigator trainees applying for a license must make available for inspection a log of experience on a form provided by the Board.

(d) Each applicant must provide evidence of high school graduation either by diploma, G.E.D. certificate, or other acceptable proof.

(e) Each applicant for a license shall meet personally with either a Board investigator, the Screening Committee; the Director, or a Board representative designated by the Director prior to being issued a license. The applicant shall discuss the provisions of G.S. 74C and the administrative rules during the personal meeting. The applicant shall sign a form provided by the Board indicating that they have reviewed the information with the Board's representative and that they have an understanding of G.S. 74C and the administrative rules.

*History Note: Authority G.S. 74C-2; 74C-5; 74C-8; 74C-8.1;
Eff. June 1, 1984;
Amended Eff. July 1, 2011; August 1, 1998; December 1, 1995;
July 1, 1987; December 1, 1985.*

**12 NCAC 07D .0701 APPLICATION FOR UNARMED
SECURITY GUARD REGISTRATION**

(a) Each employer or his designee shall submit and sign an application form for the registration of each employee to the Board. This form shall be accompanied by:

- (1) two sets of classifiable fingerprints on an applicant fingerprint card;
- (2) two head and shoulders color photographs of the applicant of acceptable quality for identification, one inch by one inch in size, taken within six months prior to submission;
- (3) certified statement of the result of a criminal records search from the appropriate governmental authority housing criminal record information or clerk of superior court in each area where the applicant has resided within the immediately preceding 48 months;
- (4) the applicant's non-refundable registration fee; and
- (5) actual cost charged to the Private Protective Services Board by the State Bureau of Investigation to cover the cost of criminal record checks performed by the State Bureau of Investigation, collected by the Private Protective Services Board.

(b) The employer of each applicant for registration shall give the applicant a copy of the application and shall retain a copy of the application in the individual's personnel file in the employers' office.

(c) The applicant's copy of the application shall serve as a temporary registration card which shall be carried by the applicant when he is within the scope of his employment and which shall be exhibited upon the request of any law enforcement officer or authorized representative of the Board.

(d) A statement signed by a certified trainer that the applicant has successfully completed the training requirements of 12 NCAC 7D .0707 shall be submitted to the Director with the application.

(e) A copy of the statement specified in Paragraph (d) of this Rule shall be retained by the licensee in the individual applicant's personnel file in the employer's office.

History Note: Authority G.S. 74C-5; 74C-8.1; 74C-11; Eff. June 1, 1984; Amended Eff. July 1, 2011; August 1, 1998; December 1, 1995; June 1, 1994; February 1, 1990; May 1, 1988.

12 NCAC 07D .1201 EXPERIENCE REQUIREMENTS FOR COURIER LICENSE

History Note: Authority G.S. 74C-3(a)(4); 74C-5; 74C-13; Eff. May 1, 2004; Amended Eff. February 1, 2009; Repealed Eff. July 1, 2011.

TITLE 13 – DEPARTMENT OF LABOR

13 NCAC 13 .0101 DEFINITIONS

The following definitions apply throughout the rules in this Chapter and shall be construed as controlling in case of any conflict with the definitions contained in ANSI/NB-23 National Board Inspection Code Parts 2 and 3, The American Society of

Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, or The North Carolina State Building Code:

- (1) "Accepted Design and Construction Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME Code), or a comparable code with standards that the Chief Inspector determines to be as safe as the ASME Code.
- (2) "Appurtenance" means any control, fitting, appliance or device attached to or working in conjunction with the boiler proper or pressure vessel.
- (3) "ASME Code" means the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers.
- (4) "Audit" means activities, other than those identified as certificate inspections, conducted by the Chief Inspector or his designee. These activities include, in part:
 - (a) reviews and surveys for ASME and National Board stamp issuance and renewal;
 - (b) audits conducted on an authorized inspector at the location of a manufacturer or repair organization as may be required by the ASME Code, National Board Inspection Code, or National Board Rules for Commissioned Inspectors; and
 - (c) audits pursuant to evaluation for the issuance of North Carolina Specials.
- (5) "Automatically fired boiler" means a boiler that cycles automatically in response to a control system and which does not require a constant attendant for the purpose of introducing fuel into the combustion chamber or to control electrical input.
- (6) "Authorized Inspection Agency" means an organization employing commissioned inspectors including the following:
 - (a) the Department of Labor, Boiler Safety Bureau;
 - (b) an inspection agency of an insurance company licensed to write boiler and pressure vessel insurance; or
 - (c) an owner-user inspection agency that meets the requirements of G.S. 95-69.15.
- (7) "Authorized inspector" means an employee of an Authorized Inspection Agency who is commissioned by the National Board and this State, holds an appropriate endorsement on his/her National Board Commission, and inspects as the third party inspector in ASME Code manufacturing facilities.
- (8) "Boiler," as defined in G.S. 95-69.9(b), includes the following types of boilers:
 - (a) "Exhibition boiler" means a historical or antique boiler which generates

- steam or hot water for the purposes of entertaining or educating the public or is used for demonstrations, tourist travel or exhibitions. This term includes steam tractors, threshers, steam powered sawmills, and similar usages;
- (b) "High pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of more than 15 psig, or water is heated to a temperature greater than 250°F and a pressure greater than 160 psig for use external to itself. High pressure boilers include the following:
- (i) Electric boilers;
 - (ii) Miniature boilers;
 - (iii) High temperature water boilers; and
 - (iv) High temperature liquid boilers (other than water).
- (c) "Low pressure boiler" means a boiler in which steam or other vapor is generated at a pressure of not more than 15 psig, or water is heated to a temperature not greater than 250°F and a pressure not greater than 160 psig, including the following:
- (i) "Hot water heating boiler" means a low pressure boiler that supplies heated water that is returned to the boiler from a piping system and is used normally for building heat applications (hydronic boiler);
 - (ii) "Hot water supply boiler" means a low pressure boiler that furnishes hot water to be used externally to itself (domestic water boiler); and
 - (iii) "Steam heating boiler" means a low pressure boiler that generates steam to be used normally for building heat applications.
- (d) "Model hobby boiler" means a boiler which generates steam, whether stationary or mobile, where the boiler does not exceed 20 square feet heating surface, a shell diameter of 16 inches, a volume of 5 cubic feet and a pressure not exceeding 150 psig and is used for the purpose of entertainment or exhibiting steam technology; and
- (e) "Water heater" means a closed vessel in which water is heated by the combustion of fuel, by electricity, or by any other source and withdrawn for potable use external to the system at pressures not exceeding 160 psig and temperatures not exceeding 210°F.
- (9) "Boiler blowoff" means that system associated with the rapid draining of boiler water to remove concentrated solids which have accumulated as a natural result of steam generation. This term also applies to the blowoff for other boiler appurtenances, such as the low-water fuel cutoff.
- (10) "Boiler proper" or "pressure vessel" means the internal mechanism, shell, and heads of a boiler or pressure vessel terminating at:
- (a) the first circumferential joint for welded end connections;
 - (b) the face of the first flange in bolted flange connections; or
 - (c) the first threaded joint in threaded connections.
- (11) "Bureau" means the Boiler Safety Bureau of the North Carolina Department of Labor.
- (12) "Certificate inspection" means an inspection, the report of which is used by the Chief Inspector as justification for issuing, withholding or revoking the inspection certificate. The term certificate inspection also applies to the external inspection conducted in accordance with this Chapter whether or not a certificate is intended to be issued as a result of the inspection.
- (13) "Condemned boiler or pressure vessel" means a boiler or pressure vessel:
- (a) that has been found not to comply with G.S. Chapter 95, Article 7A, or this Chapter;
 - (b) that constitutes a menace to public safety; and
 - (c) that cannot be repaired or altered so as to comply with G.S. Chapter 95, Article 7A, and this Chapter.
- (14) "Coil type watertube boiler" means a boiler having no steam space, such as a steam drum, whereby the heat transfer portion of the water containing space consists only of a coil of pipe or tubing.
- (15) "Commissioned inspector" means an employee of an Authorized Inspection Agency that is commissioned by the National Board and the State of North Carolina and who is charged with conducting in-service inspections of pressure equipment and inspecting repairs or alterations to that equipment.
- (16) "Defect" means any deterioration to the pressure equipment affecting the integrity of the pressure boundary or its supports. Defects may be cracks, corrosion, erosion, bags, bulges, blisters, leaks, broken parts integral to

- the pressure boundary such as stays, or other flaws identified by NDE or visual inspection.
- (17) "Deficiency" means any violation of the Uniform Boiler and Pressure Vessel Act or this Chapter or identified defects.
- (18) "Design criteria" means accepted design and construction code requirements relating to the mode of design and construction of a boiler or pressure vessel.
- (19) "External inspection" means an inspection of the external surfaces and appurtenances of a boiler or pressure vessel. An external inspection may entail the "shutting down" of a boiler or pressure vessel while it is in operation, including inspection of internal surfaces, if the inspector determines this action is warranted.
- (20) "Hydropneumatic storage tank" means a pressure vessel used for storage of water at ambient temperature not to exceed 120°F and where a cushion of air is contained within the vessel.
- (21) "Imminent danger" means any condition or practice in any location that a boiler or pressure vessel is being operated which is such that a danger exists, and which could reasonably be expected to cause death or serious physical harm immediately if the condition is not abated.
- (22) "Insurance inspector" means the special inspector employed by an insurance company, and holding a valid North Carolina Commission and National Board Commission.
- (23) "Internal inspection" means as complete an examination as can reasonably be made of the internal and external surfaces and appurtenances of a boiler or pressure vessel while it is shut down.
- (24) "Maximum allowable working pressure (MAWP)" means the maximum gauge pressure as determined by employing the stress values, design rules and dimensions designated by the accepted design and construction code or as determined by the Chief Inspector in accordance with this Chapter.
- (25) "Menace to public safety" means a boiler or pressure vessel that cannot be operated without a risk of injury to persons and property.
- (26) "Miniature boiler" means a boiler which does not exceed any of the following:
- (a) 16 inch inside shell diameter;
 - (b) 20 square feet of heating surface (does not apply to electrically fired boilers);
 - (c) 5 cubic feet volume; and
 - (d) 100 psig maximum allowable working pressure.
- (27) "National Board Commission" means the commission issued by the National Board to those individuals who have passed the National Board commissioning examination and have otherwise fulfilled the requirements of the National Board Rules for Commissioned Inspectors.
- (28) "National Board Inspection Code (NBIC)" means the ANSI/NB-23 standard published by the National Board, as adopted by the Bureau.
- (29) "Nondestructive examination (NDE)" means examination methods used to verify the integrity of materials and welds in a component without damaging its structure or altering its mechanical properties. NDE may involve surface, subsurface, and volumetric examination. Visual inspection, x-rays, and ultrasound are examples of NDE.
- (30) "Nonstandard boiler or pressure vessel" means:
- (a) high pressure boilers contracted for or installed before December 7, 1935;
 - (b) heating boilers contracted for or installed before January 1, 1951;
 - (c) pressure vessels contracted for or installed before January 1, 1976;
 - (d) hydropneumatic storage tanks contracted for or installed before January 1, 1986; and
 - (e) boilers or pressure vessels for which the ASME Code is not intended to apply, other than those boilers and pressure vessels to which the term North Carolina Special applies.
- (31) "Normal working hours" means between the hours of 6:00 AM and 6:00 PM, Monday through Friday, except for state recognized holidays established in 25 NCAC 01E .0901.
- (32) "North Carolina Commission" means the commission issued by the Board, to holders of a National Board Commission, authorizing them to conduct inspections in this State.
- (33) "North Carolina Special" means a boiler or pressure vessel that is not constructed under the accepted design and construction code and for which the owner/operator must apply for a special inspection certificate with the Chief Inspector.
- (34) "NPS" means nominal pipe size.
- (35) "Nuclear component" means the items in a nuclear power plant such as pressure vessels, piping systems, pumps, valves, and component supports.
- (36) "Nuclear system" means a system comprised of nuclear components which collectively serve the purpose of producing and controlling an output of thermal energy from nuclear fuel and includes those associated systems essential to the function and overall safety of the power system.

- (37) "Operating pressure" means the pressure at which a boiler or pressure vessel operates. It shall not exceed the MAWP except as shown in Section I of the ASME Code for forced flow steam generators.
- (38) "Owner or user" means any person or legal entity responsible for the operation of any boiler or pressure vessel installed in this State. This term also applies to a contractor, installer, or agent of the owner or user, as applicable.
- (39) "Owner-user inspector" means an individual who holds a valid North Carolina Commission and National Board Commission and is employed by a company operating pressure vessels for its own use and not for resale, and maintains an inspection program that meets the requirements of the National Board for periodic inspection of pressure vessels owned or used by that company.
- (40) "Pressure piping" means piping including welded piping, external to high pressure boilers from the boiler proper to the required valve(s).
- (41) "Pressure relief devices" mean the devices on boilers and pressure vessels set to open and relieve the pressure in the event of an over pressurization event, and include the following:
 - (a) "Non-reclosing pressure relief device" means a pressure relief device designed to remain open after operation and includes a rupture disk which is a non-reclosing pressure relief device actuated by static pressure upstream of the device and designed to function by the bursting of a pressure retaining disk; and
 - (b) "Pressure relief valve" means a pressure relief device that is designed to reclose and prevent the further flow of fluid after normal conditions have been restored. These devices include:
 - (i) "Relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve which opens further with the increase in pressure over the opening pressure;
 - (ii) "Safety relief valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action or by opening in proportion to the increase in pressure over the opening pressure; and
- (iii) "Safety valve" means an automatic pressure relief valve that is actuated by static pressure upstream of the valve and characterized by full opening pop action.
- (42) "PSIG" means pounds per square inch gauge.
- (43) "Reinspection or Follow-Up Inspection" means as complete an examination as is necessary to verify that any repair or corrective action required as a result of a certificate inspection is completed.
- (44) "Service vehicle" means a vehicle mounted with an air storage tank and often with other storage tanks that have oil, grease or other fluids. The purpose of the vehicle is to service vehicles and equipment in the field away from the owner's shop.
- (45) "Shop inspection" means an inspection conducted by an Authorized Inspector pursuant to an inspection service agreement whereby the fabrication process or the repair or alteration of a boiler or pressure vessel is observed to ensure compliance with ASME and the National Board.
- (46) "Special inspection" means any inspection conducted by a Deputy Inspector other than a regularly scheduled inspection. Special inspection also includes the performance of an inspection by a Deputy Inspector which requires that the inspector make a special trip to meet the needs of the individual or organization requesting the inspection, including conducting certificate inspections during hours other than normal working hours, and inspection of field repairs and alterations.
- (47) "Special inspector" means a National Board commissioned inspector employed by an insurance company authorized to write boiler and pressure vessel insurance in the state of North Carolina.
- (48) "Violation" means the failure to comply with the requirements of the Uniform Boiler and Pressure Vessel Act or this Chapter.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. May 29, 1981; Temporary Amendment [(16)]; Eff. March 10, 1982, for a Period of 120 Days to Expire on July 8, 1982; Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; January 1, 1987; January 1, 1986; June 1, 1982.

13 NCAC 13 .0103 INCORPORATED - STANDARDS

- (a) The following standards are incorporated by reference, including subsequent amendments and editions of the standards:
 - (1) The ANSI/NB-23 National Board Inspection Code (NBIC) Parts 2 and 3. Copies of the

ANSI/NB-23 National Board Inspection Code Parts 2 and 3 are available for inspection at the offices of the Bureau and may also be obtained from the National Board of Boiler and Pressure Vessel Inspectors, via U.S. Mail at 1055 Crupper Avenue, Columbus, Ohio 43299, via telephone at (614) 888-8320, or via the internet at www.nationalboard.org. The cost is one hundred and fifty dollars (\$150.00) per NBIC hard copy edition (complete set); sixty-five dollars (\$65.00) for one part only; and one hundred and thirty dollars (\$130.00) for two parts only, plus shipping and handling.

- (2) The American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code. Copies of the complete set of the ASME Code are available for inspection at the offices of the Bureau and may also be obtained from the American Society of Mechanical Engineers, via U.S. Mail at P.O. Box 2300, Fairfield, New Jersey 07007-2300, via telephone at (800) 843-2763, via facsimile at (973) 882-1170, via email at infocentral@asme.org, or via the internet at www.asme.org. The cost is fourteen thousand five hundred dollars (\$14,500) per set.

- (3) The North Carolina State Building Code. Copies of the North Carolina State Building Code are available for inspection at the offices of the Bureau and may also be obtained either from the North Carolina Department of Insurance, Office of the State Fire Marshall, Engineering Division, Codebook Section, via walk-in at 322 Chapanoke Road, Suite 200, Raleigh, North Carolina 27603, or from the International Code Council via telephone at (800) 786-4452 or via the internet at www.ncdoi.com/OSFM/Engineering/CodeServices/engineering_codeservices_sales.asp. The cost is one hundred sixteen dollars (\$116.00) per copy.

(b) The rules of this Chapter shall control when any conflict between these Rules and the standards cited in Subparagraphs (a)(1) and (2) of this Rule exists. In the event that a conflict between these Rules and the North Carolina State Building Code exists, the more stringent standard prevails and shall be adhered to.

History Note: Authority G.S. 95-69.11; 95-69.14; Eff. January 1, 1995; Amended Eff. July 1, 2011; July 1, 2006.

13 NCAC 13 .0202 INSPECTOR QUALIFICATION

(a) Deputy Inspectors conducting certificate inspections shall be in possession of a valid North Carolina Commission. Special Inspectors and Owner-User Inspectors shall be in possession of a National Board Commission and a North Carolina Commission.

(b) A North Carolina Commission shall be issued to an inspector who:

- (1) has attained a passing grade of 70 percent or higher on an examination administered by the Chief Inspector relating to the Uniform Boiler and Pressure Vessel Act and the rules of this Chapter; and
- (2) meets all other criteria as set forth in the Uniform Boiler and Pressure Vessel Act and this Chapter.

(c) If a North Carolina Commissioned inspector does not conduct at least one inspection in North Carolina per calendar year, the inspector must retake and pass this examination before becoming commissioned again in this state.

(d) National Board examinations are administered by the National Board of Boiler and Pressure Vessel Inspectors through Applied Measurement Professionals ("AMP"). Information on the examinations may be found on the National Board web site at www.nationalboard.org or by telephone at (614) 888-8320.

(e) The National Board Inservice Inspector examination covers the installation, operation, maintenance and repair of boilers and pressure vessels and their appurtenances. A grade of 70 percent or higher must be attained to achieve a passing grade on the examination.

History Note: Authority G.S. 95-69.11; 95-69.15; Eff. May 29, 1981; Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; September 1, 1986.

13 NCAC 13 .0203 NORTH CAROLINA COMMISSION

(a) When requested by the employer and upon presentation of a properly completed Application for Commission as an Inspector of Boilers and Pressure Vessels, a North Carolina Commission, bearing the signature of the Commissioner, shall be issued by the Board to persons holding a valid National Board Commission who have taken and passed the examination specified in 13 NCAC 13 .0202(b).

(b) Applications for a North Carolina Commission shall be processed upon proof of a National Board Commission and payment of a twenty five dollar (\$25.00) fee to the Department of Labor.

(c) North Carolina Commissions are valid through December 31, at which time the inspector's employer shall submit a renewal request letter and a twenty five dollar (\$25.00) fee to the Department of Labor.

(d) The North Carolina Commission shall be returned by the employing company with notification of termination date to the Bureau within 30 days of termination of employment.

(e) A North Carolina Commission may be suspended or revoked by the Board in accordance with G.S. 95-69.13 for incompetence, untrustworthiness or falsification of any statement in an application or inspection report. The Board shall give notice of the commencement of proceedings for suspension or revocation of a commission pursuant to G.S. 150B-23. A North Carolina Commission may be suspended prior to the hearing if the Chief Inspector determines that the public health, safety or welfare requires this action. In this case, the proceedings shall be promptly commenced and determined in accordance with G.S. 150B-3. The Board's decision regarding

the competency of an inspector shall be determined after consideration of the knowledge, skill, and care ordinarily possessed and employed by boiler and pressure vessel inspection personnel in good standing. Industry custom and practice shall be considered but are not determinative. Failure to conduct the inspections in accordance with this Chapter shall constitute incompetence. The inspector shall be given the opportunity to show that he is conducting his duties in a competent manner and that suspension or revocation is unwarranted. If the inspector believes that the decision of the Board is not warranted, he may file a petition for judicial review pursuant to Article 4 of Chapter 150B of the N.C. General Statutes.

History Note: Authority G.S. 95-69.11; 95-69.15;

Eff. May 29, 1981;

Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; March 2, 1992; September 1, 1986.

13 NCAC 13 .0204 CONFLICT OF INTEREST

No one holding a commission in North Carolina shall engage in any conduct or endeavor that would constitute a conflict of interest including the following:

- (1) Ownership or employment in any kind of boiler or pressure vessel sales or service business;
- (2) Ownership or employment in any kind of boiler or pressure vessel parts or appurtenances sales or service business;
- (3) Consultative services for accepted design and construction codes or National Board quality program design or implementation; or
- (4) Inspection services outside the purview of the employing entity.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0208 INSURANCE COMPANIES TO NOTIFY CHIEF INSPECTOR

(a) All insurance companies shall notify the Chief Inspector within 30 days if any of the following actions are taken concerning boiler or pressure vessels:

- (1) the issuance of a policy;
- (2) the cancellation of a policy; or
- (3) removal of a boiler or pressure vessel from service.

(b) All insurance companies shall notify the Chief Inspector within 10 days regarding the non-renewal or suspension of a policy because of unsafe conditions.

(c) Notification for items listed under Paragraph (a) of this Rule shall be made by using the National Board form NB-4, or a form determined by the Chief Inspector to be equivalent to the National Board form. Notifications under Paragraph (b) of this Rule shall be made by telephone at (919) 807-2760, email at boiler.safety@labor.nc.gov or overnight mail or package delivery service to the Boiler Safety Bureau, B506, 111

Hillsborough St., Raleigh, NC 27603. All notifications shall include reference to the following:

- (1) Object, date of service and effective date;
- (2) Owner's number;
- (3) Jurisdiction number;
- (4) National Board number;
- (5) Name of manufacturer;
- (6) Name of owner including county;
- (7) Location of object including county;
- (8) User of object;
- (9) Date of last inspection for certificate;
- (10) Whether or not a certificate of inspection was issued; and
- (11) Reason for discontinuance or cancellation.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0209 INSTALLERS TO NOTIFY CHIEF INSPECTOR

Any company or individual installing boilers or pressure vessels subject to inspection in accordance with this Chapter shall notify the Chief Inspector and request a certificate inspection not less than 10 working days prior to placing equipment in operation. Any company or individual wishing to install used boilers or pressure vessels that are subject to this Chapter shall request permission using the Used Equipment Request Form found on the Boiler Safety Bureau website. Equipment shall not be operated, other than for testing, prior to an inspection being conducted that finds the boiler or pressure vessel to be in compliance with this Chapter.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Amended Eff. July 1, 2011; July 1, 2006; January 1, 1995.

13 NCAC 13 .0212 PREPARATION FOR INSPECTION

(a) The owner or user shall prepare a high pressure boiler, including locomotive, hobby and exhibition boilers, for internal inspection by:

- (1) cooling the boiler, furnace, and setting so as to prevent damage to any part;
- (2) draining and washing internal parts to be inspected, including disassembly and cleaning of float bowl type low-water fuel cutoff devices and associated piping plugs or caps;
- (3) removing wash-out, drain, and inspection plugs;
- (4) removing enough of the grates in an internally fired boiler to permit inspection;
- (5) removing soot, ashes and unburned solid fuel plus enough brickwork, refractory, and insulation to permit inspection;
- (6) removing manhole and handhole plates;
- (7) preparing the controls and safety devices for inspection and testing;

- (8) preventing leakage of water, steam, or vapors into boiler interiors that would endanger personnel;
- (9) providing adequate ventilation to prevent the accumulation of hazardous gasses; and
- (10) providing, when requested by the inspector, a competent person, as defined under the North Carolina Occupational Safety & Health standard for confined spaces, to assist the inspector in the performance of his inspection.

(b) In addition to the requirements in Paragraph (a) of this Rule, the owner or user shall prepare a high pressure boiler that has a manhole and which is connected to a common header with another boiler for internal inspection by:

- (1) closing and tagging, or padlocking, the steam stop valves and opening all drain valves or cocks located between the steam stop valves;
- (2) closing and tagging, or padlocking, the feed and check valves and opening all drain valves or cocks located between the feed and check valves;
- (3) draining boiler and then closing and padlocking the blowoff valves;
- (4) disconnecting, at the request of the inspector, blowoff lines between pressure parts and valves;
- (5) opening all drains and vent lines;
- (6) closing and tagging or padlocking all fuel valves, blower or fan motors and any other devices that may deliver energy in any form to the boiler; and
- (7) after complying with all other provisions of this Rule, removing the manhole covers.

(c) The owner or user need not make any special preparation for an external inspection of a boiler or pressure vessel, except that if the inspector requires the boiler or pressure vessel to be shut down for a closer inspection, the boiler or pressure vessel shall be prepared as is required for the internal inspection of a high pressure boiler.

*History Note: Authority G.S. 95-69.11;
Eff. May 29, 1981;
Amended Eff. July 1, 2011; July 1, 2006; January 1, 1995.*

13 NCAC 13 .0214 EXTENDED PRESSURE EQUIPMENT OPERATING CERTIFICATES

(a) G.S. 95-69.16 and 13 NCAC .0211(l) of this Chapter allows the Commissioner, through the Chief Inspector, to modify the inspection frequency for individual pressure equipment if it is determined that due to unique conditions, the new frequency will provide for the safety attained by the normal inspection frequency. Proper maintenance programs, the condition of the pressure equipment and a baseline inspection help to determine if the equipment is eligible for extended certification. The Chief Inspector may allow certificate renewal frequencies of up to three years. Companies wishing to have their pressure equipment given an extended certification must apply by letter to the Chief Inspector requesting extended certification.

(b) For a first time extended inspection frequency, the following shall apply to both new and existing equipment:

- (1) Base Line Inspections: At the outset of an extended inspection frequency, a base line inspection must be conducted of all inside and outside accessible pressure boundaries. The inspected area shall be examined visually by a North Carolina Department of Labor, Boiler Safety Bureau Inspector Supervisor along with a Deputy Inspector for evidence of cracking, discoloration, wear, pitting, bulging, blistering, excessive corrosion and erosion, arc strikes, gouges, dents and other signs of surface irregularities. Areas that are suspect shall be non-destructively examined by a method acceptable to the Inspector Supervisor and Deputy Inspector. For areas which are still suspect after such examination, a more thorough supplemental examination and engineering evaluation of the discontinuities shall be conducted and discussed with the Chief Inspector or designee. At that time, a decision shall be rendered on the required repair of the discontinuity;
- (2) Inspection Mapping and Records: An inspection grid map shall be constructed for each pressure component detailing precisely the areas found suspect. The grid shall not exceed four inch square. Suspect area shall be described in relevant details and photographs of such areas shall be taken. Records shall be kept and made available to the Deputy Inspector prior to the next required inspection;
- (3) Base Line Inspection of Boiler Tubes: The boiler tubes shall be examined by nondestructive examination. Tubes shall be examined for wear, corrosion, erosion, thinning, bulging, blistering, dents, discoloration, cracking and any other surface irregularities. Areas which are suspect shall be noted and discussed with the Inspector Supervisor and Deputy Inspector; and
- (4) Boiler Tube Inspection Mapping and Record: Where suspect tubes are identified, the boiler tubes shall be numbered in a logical sequence and the location of any suspect area shall be precisely defined and described in relevant details. Photographs of such areas shall be taken. Records shall be kept and made available to the Inspector Supervisor and Deputy Inspector prior to the next required inspection.

(c) Scheduling of Inspections for Extended Certificate: Approximately two months prior to a scheduled outage in which the boiler may be inspected, and prior to the current certificate expiration, the owner shall do the following in order to initiate the inspection process:

- (1) Send a letter addressed to the Chief Inspector requesting the extended certificate;

- (2) Contact the North Carolina Department of Labor, Boiler Safety Bureau at 919-807-2760 and request to speak with an Inspector Supervisor for the purpose of scheduling the inspections required for extending the boiler inspection certificate expiration for to up to 36 months (have the North Carolina identification number available); and
- (3) Agree with the Inspector Supervisor and Deputy Inspector on a date to meet for the external inspection of the boiler and to review reports. The boiler must be operating when the external inspection is done. Heat recovery boilers with less than one percent capacity factor per year may be excluded from the need to operate during the external inspection but a letter requesting the exclusion must be sent to the Chief Inspector stating the capacity factor for the year.

(d) External Inspection: The following reports must be available to the Inspector Supervisor and Deputy Inspector at the external inspection:

- (1) NBIC R1 forms with job folders (for the past five years for initial inspections and since the previous inspection for renewals);
- (2) A list of major modifications scheduled and those modifications done since the last internal inspection with the NBIC R2 forms;
- (3) VR forms (for the past five years for initial inspections and since the previous inspection for renewals);
- (4) Remaining life analysis (RLA) reports for headers (for the past five years for initial inspections and since the previous inspection for renewals);
- (5) Side elevation drawing of the boiler (8 ½ inches by 11 inches);
- (6) Steam & Mud drums - Original drum thickness, drawings and P4's if available;
- (7) Copy of the last operating certificate and copies of the last three years of inspection reports;
- (8) Reports of annual external inspections (by owner's insurance company or a Boiler Safety Bureau Deputy Inspector; and
- (9) Attention must be paid to the areas determined suspect by previous inspections.

(e) Internal Inspection: Following are the required inspections during the outage:

- (1) Prior to the outage the safety valves must be inspected. Schedule the operational test for all safety valves after the unit comes back up. Upon a successful operational test, the repair organization will affix an updated inspection tag to the valve. Request the Deputy Inspector to return and verify the updated inspection tag. In lieu of operational tests, it is acceptable to replace safety valves with new valves or

valves reworked by a National Board "VR" or "NVR" authorized company;

- (2) Inspect the pressure equipment internally; and
- (3) Inspect the drums and shells using the following methods:
 - (A) Examine penetrations into the drum/shell wall for cracking: if the nozzles are visible from inside the drum/shell, then a visual examination is satisfactory; otherwise ultrasonically examine the nozzles, from the outside surface, of at least 20 percent of the pressure equipment nozzles;
 - (B) Visually examine inside the heads; and
 - (C) Crawl through the drum/shell for a visual examination if possible.

(f) Setting the Certificate Interval: The Deputy Inspector will inform the owner whether the inspection records and condition of the pressure equipment meet the requirements necessary for requesting the Chief Inspector to extend the inspection certificate. If the necessary requirements are met, the Deputy Inspector will submit his inspection report to the Chief Inspector with the recommendation for up to a three-year certificate.

(g) Follow-up and Interim Inspections: External inspections of high pressure boilers are required six months after the certificate renewal, and then annually thereafter. The external inspections may be performed by the Boiler Safety Bureau Deputy Inspectors or by the owner's insurance inspector. The results of the inspection must be submitted to the North Carolina Department of Labor, Boiler Safety Bureau on the appropriate inspection form as provided by the Chief Inspector.

History Note: Authority G.S. 95-69.11; 95-69.14; 95-69.16; Eff. July 1, 2011.

13 NCAC 13 .0301 INSPECTION DOCUMENTATION

(a) The inspector shall document the results of the inspection on a written inspection report or in an electronic format recognized by the Chief Inspector.

(b) If the inspector finds that the boiler or pressure vessel is in compliance with the rules in this Chapter, he shall indicate on the report that the boiler or pressure vessel is satisfactory.

(c) If the inspector finds the boiler or pressure vessel is not in compliance with the rules in this Chapter, he shall specify on the inspection report the deficiencies and the required repairs or corrective action.

(d) The inspector shall determine if the deficiency is such that operation of the boiler or pressure vessel creates a condition of imminent danger. If a condition of imminent danger exists, the inspector shall state on the inspection report that operation of the boiler or pressure vessel is to cease until completion of the necessary repairs or corrective action. The inspector shall notify the Chief Inspector upon discovery of any condition of imminent danger.

(e) If the condition of the boiler or pressure vessel is such that repairs or corrective action cannot bring the boiler or pressure

vessel into compliance, the inspector shall recommend to the Chief Inspector that the boiler or pressure vessel be condemned from further use.

(f) For inspections revealing deficiencies, the inspector shall provide the owner/user contact with specific information regarding the violation. The Bureau shall generate a Notice of Violation letter and send to the owner/user. The Notice of Violation shall outline the violation(s), the required corrective action, and the date by which the corrective action shall be completed.

(g) The Bureau shall issue an invoice to the owner or user for the inspections made and for issuance of the inspection certificate. The owner or user shall remit payment as indicated on the invoice within 30 days to the North Carolina Department of Labor.

History Note: Authority G.S. 95-69.11; 95-69.16;

Eff. May 29, 1981;

Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; August 1, 1988.

13 NCAC 13 .0401 DESIGN AND CONSTRUCTION STANDARDS

(a) The design, construction, installation, inspection, stamping, and operation of all boilers and pressure vessels shall conform to the rules in this Chapter and the accepted design and construction code.

(b) Repairs and alterations to boilers and pressure vessels shall conform to the requirements of the National Board Inspection Code.

13 NCAC 13 .0404 CONTROLS AND SAFETY DEVICES

Boilers and pressure vessels shall be equipped with all suitable controls and safety devices required for safe operation of the equipment. Controls and safety devices shown in Table-0404 in this Rule are considered minimum requirements for the various types of boilers and pressure vessels listed. All devices required in this Rule and shown in Table-0404 are suitable for the maximum allowable operating pressure and temperature of the boiler or pressure vessel on which they are installed. The design, construction, installation, and operational requirements for controls and safety devices are as required in Rules .0405 through .0420 of this Section.

TABLE-0404

REQUIRED DEVICE AND REFERENCED RULE	HIGH PRESSURE BOILER	STEAM HEATING BOILER	HOT WATER HEATING BOILER	HOT WATER SUPPLY BOILER	WATER HEATER	PRESSURE VESSEL
Pressure Relief Device .0405	X	X	X	X	X	X
High Limit Control .0406	X	X	X	X	X	
Pressure Gauge .0407	X	X	X	X		X
Steam Syphon (steam boilers only) .0407	X	X				
Water Column & Gauge Glass (steam boilers only) .0408	X	X				
Low-Water Fuel Cutoff (If input > 400,000 Btu) .0409	X	X	X	X		
Temperature Gauge .0410			X	X	X	
Bottom Blowoff Valves .0411	X	X				
Drain Valves .0411	X	X	X	X	X	X
Make-up Water Stop Valve(s) .0411	X	X	X	X	X	
Expansion Tank .0412			X	X	X	
Flame Failure Control .0420	X	X	X	X		

(c) The rules of this Chapter shall control when any conflict is found to exist between the Rules and the accepted design and construction code or the National Board Inspection Code.

(d) Welded repairs and alterations may be made only by an individual or organization in possession of a valid certificate of authorization for use of the National Board "R" symbol stamp. Repairs and alterations shall be reported on National Board "R1" and "R2" reports respectively. The forms, along with supplements used, shall be submitted to the Chief Inspector within 60 days of the completion of the work conducted. Repair and alteration forms shall be annotated with the appropriate NC identification number for the pressure equipment repaired.

(e) In such cases where removal of a defect in a pressure-retaining item is not practical at the time of discovery, with approval of the Chief Inspector, the repair may be conducted in compliance with the NBIC, Part 3 Repairs and Alterations, Repair of Pressure-Retaining Items Without Complete Removal of Defects.

(f) Repairs of safety valves or safety relief valves shall be made by an individual or organization in possession of a valid certificate of authorization for use of the National Board "VR" symbol stamp.

History Note: Authority G.S. 95-69.11; 95-69.13; 95-69.14;

Eff. May 29, 1981;

Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995; February 1, 1989; February 1, 1985; June 1, 1982.

History Note: Authority G.S. 95-69.11; 95-69.14;
 Eff. January 1, 1995;
 Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006.

13 NCAC 13 .0406 HIGH PRESSURE OR TEMPERATURE LIMIT CONTROL

(a) Each automatically fired steam boiler or system of commonly connected steam boilers shall have at least one steam pressure control that will shut off the fuel supply to each boiler or system of commonly connected boilers when the pressure reaches a preset maximum operating pressure. In addition to the required operating pressure control, each individual automatically fired steam boiler shall have a high steam pressure limit control that will shut off the fuel supply to the boiler to prevent pressure in excess of the maximum allowable working pressure. The high limit control shall be equipped with a manual reset which shall prevent the boiler from being fired after the maximum pressure has been reached until the operator resets the switch manually. Steam boilers shall be provided with a syphon(s) or equivalent which will provide a water seal and protect the pressure control(s) from being damaged by the steam.

(b) Each automatically fired hot water heating boiler, hot water supply boiler, water heater or each system of commonly connected hot water heating or supply boilers shall have at least one temperature-actuated control to shut off the fuel supply when the system water reaches a preset operating temperature. In addition to the required temperature control, each individual automatically fired hot water heating boiler, hot water supply boiler, and water heater shall have a high temperature limit control that will prevent the water temperature from exceeding the maximum allowable temperature for the respective equipment. The high limit control for the hot water heating boilers and hot water supply boilers that are either stamped with the ASME "H" symbol or are not constructed in accordance with the ASME Codes shall be equipped with a manual reset which shall prevent the boiler from being fired after the maximum temperature has been reached until the operator resets the switch manually.

(c) Automatic resets or remote resets by electronic means are prohibited. The manual reset may be incorporated in the high limit control. Where the reset device is separate from the high limit control, a means shall be provided to indicate actuation of the high limit control. Each high limit and operating control shall have its own sensing element and operating switch.

History Note: Authority G.S. 95-69.11; 95-69.14;
 Eff. May 29, 1981;

*Recodified from 13 NCAC 13 .0407 Eff. January 1, 1995;
 Amended Eff. July 1, 2011; July 1, 2006; January 1, 1995.*

13 NCAC 13 .0408 GAUGE GLASSES AND WATER COLUMNS

(a) Steam boilers, except for forced flow steam boilers and forced flow water boilers requiring forced circulation to prevent overheating of the tubes, shall be provided with a visible gauge glass which will allow the operator to observe the water level of the boiler. Boilers with a maximum allowable working pressure in excess of 400 psig shall have two gauge glasses. Two

independent remote level indicators may be used, in accordance with the ASME Code, in lieu of one of the gauges. Gauge glasses and remote level indicators must be visible to the operator while reading the pressure at the boiler.

(b) Gauge glasses shall be mounted directly on the boiler or on a water column. Gauge glasses shall be mounted so that the lowest visible part of the gauge glass is above the lowest permissible water level by at least 2 inches for high pressure boilers and 1 inch for steam heating boilers. Gauge glasses may be installed with stop cocks or valves to allow for gauge glass replacement during boiler operation. The connections from the boiler shall be not less than 3/4 inch NPS up to and including the isolation valves, and not less than 1/2 inch outside diameter tubing from the isolation valve to the gauge glass.

(c) Gauge glasses shall be provided with a drain valve or cock and discharge outlet at the bottom-most connection of not less than 1/4 inch diameter. The discharge outlet shall be piped to a safe location to prevent injury to the operator while blowing down the gauge glass.

(d) Water columns, chambers which moderate fluctuations in water elevations for determining the operating water level in a boiler, when used, shall be designed, constructed, and stamped as required by the ASME Code. The piping connections to the boiler shall be not less than 1 inch NPS for high pressure boilers or 3/4 inch NPS for heating boilers. If the water column is connected to the boiler by pipe fittings, no shut off valves of any type shall be placed in such pipe. A cross or equivalent fitting shall be placed at every right angle turn to facilitate cleaning. Water columns shall have a drain valve and discharge outlet of not less than 3/4 inch NPS.

History Note: Authority G.S. 95-69.11; 95-69.14;
 Eff. January 1, 1995;
 Amended Eff. July 1, 2011; July 1, 2006.

13 NCAC 13 .0409 AUTOMATIC LOW-WATER FUEL CUTOFF CONTROLS AND WATER-FEEDING DEVICES

(a) Each automatically fired steam or vapor boiler, except miniature boilers, shall meet the following criteria:

- (1) Have at least two automatic low-water fuel cutoff devices;
- (2) One of the low-water fuel cutoff devices may also be used to regulate the normal water level;
- (3) Each cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest visible part of the gauge glass;
- (4) One control shall be set to function ahead of the other. The lower fuel cutoff device shall be equipped with a manual reset which shall prevent the boiler from being fired after the low water limit has been reached until the operator resets the switch manually; and

- (5) The low-water fuel cutoffs shall be attached directly to the boiler or to the water column with no stops or valves. For float type low-water fuel cutoffs installed external to the boiler, each device shall be installed in individual chambers which shall be attached to the boiler by separate pipe connections below the waterline. If the low-water fuel cutoff is connected to the boiler by pipe and fittings, no shut off valves of any type shall be placed in such pipe. A cross or equivalent fitting shall be placed at every right angle turn to facilitate cleaning. Piping from the boiler shall be not less than 1 inch NPS. Low-water fuel cutoff designs embodying a float and float bowl shall have a vertical straightaway valved drain pipe of not less than $\frac{3}{4}$ inch NPS at the lowest point in the water-equalizing pipe connections by which the bowl and the equalizing pipe can be flushed and the device tested.
- (b) Each automatically fired hot water heating boiler with heat input greater than 400,000 Btu/hr (117 kW) shall meet the following criteria:
- (1) Be protected by a low-water fuel cutoff intended for hot water service;
 - (2) The fuel cutoff device shall be installed to prevent startup and to shut down the boiler fuel or energy supply automatically when the surface of the water falls to a level not lower than the lowest safe permissible water level established by the boiler manufacturer;
 - (3) The fuel cutoff device shall be equipped with a manual reset which shall prevent the boiler from being fired after the lowest water level has been reached until the operator resets the switch manually;
 - (4) The low-water fuel cutoff installed in a hot water heating boiler system may be installed anywhere in the system above the lowest safe permissible water level established by the boiler manufacturer so long as there is no isolation valve installed between the device and the boiler. Connections to the system shall be not less than 1 inch NPS; and
 - (5) A means shall be provided for testing the operation of the low-water fuel cutoff on a hot water heating boiler system without resorting to draining the entire system.
- (c) Coil type boilers or watertube boilers requiring forced circulation to prevent overheating of the coils or tubes may have a flow-sensing device installed at or near the boiler proper, in lieu of a low-water fuel cutoff, to automatically cut off the fuel supply when the circulation of flow is interrupted. If there is a definitive water line, a low-water fuel cutoff complying with the forgoing shall be provided in addition to the flow-sensing device.
- (d) Electric boilers where uncovering of the electrical element can lead to an unsafe condition shall be equipped with a low-water fuel cutoff device. In the case of electrode type boilers,

where the reduction in water level provides a self-limiting control on heat input, a low-water cutoff control is not required.

(e) Automatically fired boilers shall be provided with a system to automatically maintain a constant water level so that the water level cannot fall below the lowest safe water line.

(f) Low water fuel cutoff devices embodying a float and float bowl shall be installed so that the boiler feedwater or makeup water cannot be introduced through the float chamber.

History Note: Authority G.S. 95-69.14;

Eff. January 1, 1982;

Recodified from 13 NCAC 13 .0416 Eff. January 1, 1995;

Amended Eff. July 1, 2011; January 1, 2009; July 1, 2006; January 1, 1995.

13 NCAC 13 .0410 TEMPERATURE GAUGES/THERMOMETERS/TEMPERATURE SENSORS

(a) Every high temperature water boiler, hot water heating boiler, hot water supply boiler or water heater shall be provided with a temperature gauge, thermometer or temperature sensor with the display located and connected so that it is readable. The temperature gauge, thermometer or temperature sensor shall be located so that it indicates the temperature of the water in the boiler at or near the outlet at all times.

(b) Temperature gauges and thermometers shall have a range of approximately two times the intended operating temperature. The temperature gauge shall have a range of no less than one and a half times and no more than four times the intended operating temperature.

(c) Electronic temperature sensors may be used in lieu of temperature gauges and thermometers and shall meet the following requirements:

- (1) The sensor shall be powered from the boiler power supply, have a backup power supply, and have a display that remains on at all times;
- (2) The full scale of the sensor and display shall be at least 250 degrees Fahrenheit, and shall be accurate to within +/- one degree;
- (3) The sensor shall have a minimum operating temperature range of 32 degrees Fahrenheit to 300 degrees Fahrenheit; and
- (4) The display shall have an ambient operating temperature range of 32 degrees Fahrenheit to 120 degrees Fahrenheit, unless otherwise required by the application.

History Note: Authority G.S. 95-69.11; 95-69.14;

Eff. May 29, 1981;

Amended Eff. January 1, 1982;

Recodified from 13 NCAC 13 .0411 Eff. January 1, 1995;

Amended Eff. July 1, 2011; July 1, 2006; January 1, 1995.

13 NCAC 13 .0411 VALVES, DRAINS, AND BOTTOM BLOWOFFS

(a) High pressure boilers operating in excess of 100 psig must be provided with two stop valves for boiler blowoff and drain outlets. Any boiler having a common steam connection with another boiler, and having a manhole opening, shall be provided

with two steam outlet stop valves with an ample free-blow drain or vent between the two stop valves. The discharge of this drain shall be visible to the operator while operating the valve.

(b) All boilers, except for coil-type water tube boilers, shall be provided with a drain outlet and stop valve of not less than 3/4 inch NPS at the lowest water containing space, except that if the boiler is provided with a blowoff outlet at the lowest water containing space, an additional drain outlet is not required.

(c) High pressure boilers shall be provided with a bottom blowoff outlet and valve of not less than 1 inch NPS nor more than 2 1/2 inches NPS, except as modified below:

- (1) Miniature high pressure boilers shall have a blowoff outlet of not less than 3/4 inch NPS;
- (2) Electric high pressure boilers not greater than 200kW shall have a blowoff outlet of not less than 3/4 inch NPS;
- (3) High pressure boilers having a heating surface not greater than 100 square feet shall have a blowoff outlet of not less than 3/4 inch NPS; and
- (4) All other high pressure boilers shall have a blowoff outlet of not less than 1 inch NPS.

(d) Steam heating boilers shall be provided with a bottom blowoff outlet and valve of not less than 1 inch NPS nor more than 2 1/2 inches NPS, except as modified below:

- (1) Steam heating boilers having a minimum safety valve relieving capacity not exceeding 500 pounds of steam per hour shall have a blowoff outlet of not less than 3/4 inch NPS;
- (2) Steam heating boilers having a minimum safety valve relieving capacity greater than 1205 pounds of steam per hour but not greater than 2500 pounds of steam per hour shall have a blowoff outlet of not less than 1 1/4 inches NPS;
- (3) Steam heating boilers having a minimum safety valve relieving capacity greater than 2500 pounds of steam per hour but not greater than 6000 pounds of steam per hour shall have a blowoff outlet of not less than 1 1/2 inches NPS;
- (4) Steam heating boilers having a minimum safety valve relieving capacity greater than 6000 pounds of steam per hour shall have a blowoff outlet of not less than 2 inches NPS; and
- (5) All other steam heating boilers shall have a blowoff outlet of not less than 1 inch NPS.

(e) All blowoff from boilers shall discharge into a blowdown tank suitable for separating steam and water or shall be piped to prevent injury. Discharge directly to a sewer is prohibited.

(f) Valves for high pressure boilers shall be designed and constructed in accordance with the requirements of ASME Section I, and shall be stamped or embossed with the pressure/temperature rating of the valve.

(g) Valves for heating boilers shall be suitable for the operating pressure and temperature of the boiler.

(h) Pressure reducing valves shall be installed in the makeup water line where inlet supply water pressure is more than 75

percent of the maximum allowable working pressure of the boiler or pressure vessel.

(i) A shutoff valve shall be provided in the makeup water line next to each boiler and shall meet the following specifications:

- (1) Each steam heating boiler and hot water heating boiler shall be provided with a shutoff valve and a check valve. The shutoff valve shall be installed either upstream or downstream of the check valve;
- (2) Each high pressure boiler, except for high temperature water boilers, shall be provided with a shutoff valve and a check valve. The shutoff valve shall be installed between the check valve and the boiler; and
- (3) When two or more high pressure boilers are fed from a common source, there shall also be a globe or regulating valve in the branch to each boiler located between the check valve and the source of the supply.

(j) Pressure vessels subject to corrosion shall be equipped with a drain valve installed at the lowest point of the pressure vessel or by installation of an internal drain pipe installed not more than 1/4 inch above the lowest internal surface.

*History Note: Authority G.S. 95-69.11; 95-69.14;
Eff. January 1, 1995;
Amended Eff. July 1, 2011; July 1, 2006.*

13 NCAC 13 .0412 EXPANSION TANKS

(a) Hot water heating systems shall allow for thermal expansion and contraction of the piping to prevent excessive stress from being introduced into the pipe or connected equipment.

(b) When new equipment is installed and a backflow prevention system is installed or already exists on a potable water supply line for a hot water supply boiler or water heater, expansion tanks shall be installed. For water heaters, backflow preventers or check valves may be installed at the meter in water systems.

(c) When expansion tanks are used they shall be constructed and stamped in accordance with the requirements of this Chapter for pressure vessels, unless exempted due to the vessel size or operating limits.

(d) For a closed type system the expansion tank shall be not less than that determined as follows:

$$V_t = [(0.00041T - 0.0466)V_s] / [(Pa/Pf) - (Pa/Po)]$$

where:

V_t = minimum volume of tank(s), gal

V_s = volume of system, not including tanks, gal

T = average operating temperature, deg F

Pa = atmospheric pressure, psi

Pf = fill pressure, psi

Po = maximum operating pressure, psi.

*History Note: Authority G.S. 95-69.11; 95-69.14;
Eff. May 29, 1981;
Recodified from 13 NCAC 13 .0410 Eff. January 1, 1995;
Amended Eff. July 1, 2011; January 1, 2009; January 1, 1995.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND
NATURAL RESOURCES**

**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
Pickereel: 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 (exc. (21))	14 in. (excs. (8),(10)&(21))	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)	(exc. (19))	(exc. (19))	(exc. (19))
Flounder	(exc. (19))	(exc. (19))	(exc. (19))
Red drum (channel bass, red fish, puppy drum)	(exc. (19))	(exc. (19))	(exc. (19))
Striped Bass and their hybrids	8 aggregate (excs. (1),(2),(5), (6),(11),&(13))	16 in. (excs. (1),(2),(5), (6),(11),&(13))	ALL YEAR (excs.(6),(13)&(15))
(Morone Hybrids)			
Shad: (American and hickory)	10 aggregate (exc. (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 (excs. (14),(20), (23)&(25))	None (excs. (14),(20), (23)&(25))	ALL YEAR (excs.(7)&(25))

(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 season for taking and possessing striped bass is closed year-round. In the Pee Dee River and its tributaries from the South Carolina line upstream to Blewett Falls Dam, the season for taking and possessing striped bass and their hybrids is open year-round, the daily creel limit is three fish in aggregate and the minimum length limit is 18 inches.
 - (6) In the inland and joint fishing waters [as identified in 15A NCAC 10C .0107(1)(e)] of the Roanoke River Striped Bass Management Area, which includes the Roanoke, Cashie, Middle and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and their hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season the daily creel limit for striped bass and their hybrids is two fish in aggregate, the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be retained in the daily creel limit. Only one fish larger than 27 inches may be retained in the daily creel limit.
 - (7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.
 - (8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, Reedy Creek Park lakes in Mecklenburg County, Lake Rim in Cumberland County, Lake Raleigh in Wake County, Randleman Reservoir in Randolph and Guilford counties, Roanoke River downstream of Roanoke Rapids Dam, Tar River downstream of Tar River Reservoir Dam, Neuse River downstream of Falls Lake Dam, Haw River downstream of Jordan Lake Dam, Deep River downstream of Lockville Dam, Cape Fear River, Waccamaw River downstream of Lake Waccamaw Dam, the entire Lumber River including Drowning Creek, in all their tributaries, and in all other public fishing waters east of Interstate 95 (except Tar River Reservoir in Nash County), South Yadkin River downstream of Cooleemee Dam, Yadkin-Pee Dee River from Idols Dam to the South Carolina State line including High Rock Lake, Tuckertown Lake, Badin Lake, Falls Lake, Lake Tillery and Blewett Falls Lake. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In 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) In inland fishing waters, sea trout (spotted or speckled), flounder, and red drum recreational seasons, size limits and creel limits are the same as those established by Marine Fisheries Commission rule or proclamations issued by the Fisheries Director in adjacent joint or coastal fishing waters.
- (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 black bass between 14 and 20 inches in length shall be possessed and only one black bass greater than 20 inches may be possessed in the daily creel limit. No minimum size limit applies to black 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.
 - (25) In inland fishing waters, gray trout (weakfish) recreational seasons, size limits and creel limits are the same as those established by Marine Fisheries Commission rule or proclamations issued by the Fisheries Director in adjacent joint or coastal fishing waters.

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, 2011; 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.
- (6) In inland fishing waters, gray trout (weakfish) recreational seasons, size limits and creel limits are the same as those established by Marine Fisheries Commission rule or proclamations issued by the Fisheries Director in adjacent joint or coastal fishing waters.

(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, 2011; August 1, 2010; May 1, 2009;
May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

15A NCAC 10F .0376 TOWN OF EMERALD ISLE

(a) Regulated Area. This Rule applies to waters within the territorial jurisdiction of the Town of Emerald Isle, as described in Paragraph (c) of this Rule.

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

(c) Affected Areas are:

- (1) the entire length of the Bogue Sound Drive Channel, which is .6 miles in length, located adjacent and roughly parallel to the shoreline in the vicinity of Kelly Lane and Bogue Sound Drive;
- (2) the waters of the Coast Guard Channel at a point extending from the north entrance of the channel behind 419 Channel Drive to the west entrance of the channel near 116 Bogue Court; and
- (3) the waters of Bogue Sound adjacent to Archer Point south of and including that portion of the Emerald Isle channel, bounded on the west side by a line running north from 34.67569 N, 77.01537 W to the far side of the channel, and on the east side by a line running northeast from 34.67519 N, 77.01279 W to the far side of the channel.

(d) Placement and Maintenance of Markers. The Town of Emerald Isle is designated a suitable agency for placement and maintenance of the markers or signs implementing this Rule.

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. September 1, 2008;
Amended Eff. August 1, 2011; April 1, 2009.*

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 10 - BOARD OF CHIROPRACTIC EXAMINERS

21 NCAC 10 .0105 ESCROW ACCOUNT

(a) The Board shall maintain an escrow account at a federally insured bank for the temporary deposit of any fees received by the Board during a period in which the Board's authority to expend funds is suspended by operation of law.

(b) At such time as the authority of the Board to expend funds is restored, the fees deposited in the escrow account shall be transferred to the Board's general account.

*History Note: Authority G.S. 90-142; 93B-2;
Eff. July 1, 2011.*

21 NCAC 10 .0205 RENEWAL OF LICENSE

(a) General. The renewal, cancellation and restoration of a license are governed by G.S. 90-155.

(b) Renewal Application Form. Annual application for renewal of license shall be made on a form furnished by the Board. Any changes in a licentiate's name, address, professional specialty or employment, and history of criminal convictions shall be noted on the Renewal Application Form.

(c) Continuing Education. The licentiate shall state on the Renewal Application Form the name, date, sponsor and duration of all Board-approved educational sessions attended during the preceding year. As used in G.S. 90-155, one "day" of continuing education shall be defined as 12 hours. Attendance shall be corroborated by written certification from the sponsoring body. Any licentiate seeking a hardship waiver of the continuing education requirement shall make application on a separate form provided by the secretary upon request.

(d) Renewal Fee. A renewal fee in the maximum amount allowed by statute shall be paid by each licentiate applying for renewal.

(e) Restoration of Cancelled License: Evidence of Proficiency. In order to provide evidence of proper proficiency, any former licentiate whose license has been cancelled due to non-compliance with G.S. 90-155 must be re-examined and must pay the application fee prescribed in 21 NCAC 10 .0202(d) to cover the cost of re-examination. Payment of the application fee does not constitute payment of the statutory reinstatement fee.

(f) Military hardship. A licentiate who is serving in the armed forces of the United States and to whom G.S. 93B-15(a) grants an extension of time to pay a renewal fee shall also be granted an identical extension of time to complete the continuing education required for license renewal.

*History Note: Authority G.S. 90-155; 90-142; 93B-15;
Eff. February 1, 1976;
Readopted Eff. January 27, 1978;
Amended Eff. January 1, 1983; October 17, 1980;
Legislative Objection Lodged Eff. January 31, 1983;
Curative Amended Eff. February 18, 1983;
Amended Eff. July 1, 2011; January 4, 1993; December 1, 1988.*

21 NCAC 10 .0212 MEDICAL COLLEGE TRANSFER CREDITS

(a) Purpose of Rule. An increasing number of students who initially enrolled in medical colleges are transferring to chiropractic colleges. The standard curricula for the first two years of medical and chiropractic colleges are similar. The Board of Chiropractic Examiners believes that it is in the public interest to allow applicants for chiropractic licensure in this State to receive credit for hours earned while attending medical college, as such a policy promotes the efficient use of classroom

resources, reduces wasteful duplication and lowers the cost of obtaining a chiropractic degree.

(b) Declaration of Equivalency. To the extent the curricula of the institutions overlap, the Board deems a medical college approved by the Liaison Commission on Medical Education or the Committee for the Accreditation of Canadian Medical Schools or an osteopathic college approved by the American Osteopathic Association to be the equivalent of a chiropractic college accredited by the Council on Chiropractic Education.

(c) Counting Transfer Credits. For purposes of North Carolina licensure, the Board shall count any and all hours earned by an applicant at an approved medical college that have been accepted as transfer credits by the applicant's chiropractic college.

*History Note: Authority G.S. 90-142; 90-143;
Eff. July 1, 2011.*

CHAPTER 18 - BOARD OF EXAMINERS FOR ELECTRICAL CONTRACTORS

21 NCAC 18B .0102 REFERENCE TO STATE BUILDING AND ELEVATOR CODES

(a) Pursuant to G.S. 150B-21.6, the North Carolina State Building Code, Volume IV Electrical, and the National Electrical Code, NFPA 70, are incorporated by reference. Whenever a reference is made in this Subchapter to one of these codes, it means the current edition and any amendments thereto. The term "National Electrical Code" when used in these Rules includes both codes incorporated in this Paragraph.

(b) Pursuant to G.S. 150B-21.6, the North Carolina codes and standards for elevators, dumbwaiters, escalators, moving walks and personnel hoists, administered by the North Carolina Department of Labor and codified as 13 NCAC 15 .0200, are incorporated by reference. Whenever a reference is made in this Subchapter to these codes and standards, it means the current edition and amendments thereto.

*History Note: Authority G.S. 87-39; 87-42; 143-138;
Eff. October 1, 1988;
Amended Eff. July 1, 2011.*

21 NCAC 18B .0103 ANNUAL REPORTS

Annual Reports. The Board shall make timely filing of all reports required by G.S. 93B-2. In case of the untimely filing of a report, then pursuant to G.S. 93B-2(d), the Board shall hold in escrow any fees tendered between the filing deadline and the filing date. Issuance of licenses, renewals and application processing shall continue during any interval created by the untimely filing of a report required by G.S. 93B-2.

*History Note: Authority G.S. 87-39; 87-40; 87-42; 93B-2;
Eff. October 1, 1988;
Amended Eff. July 1, 2011; February 1, 1996; February 1, 1990.*

21 NCAC 18B .0106 JOINT RESOLUTION AND AGREEMENTS

*History Note: Authority G.S. 87-39; 87-42;
Eff. October 1, 1988;
Repealed Eff. July 1, 2011.*

21 NCAC 18B .0204 EXAMINATIONS

(a) All qualifying examinations administered by the Board for each license classification shall be written or computer-based examinations and must be taken personally by the applicant after the applicant has met the requirement for examination contained in the rules in this Subchapter.

(b) Upon approval of an application pursuant to these Rules, the Board shall provide the applicant a notice of examination eligibility that is valid for a period of three months and for a single administration of the qualifying examination. Upon receipt of a notice of examination eligibility from the Board, the applicant shall schedule the examination by contacting the Board or the authorized testing service. The applicant shall be scheduled for the examination, by the Board and the Board or authorized testing service will confirm the date, time and place.

(c) A minimum grade of 75 out of a possible score of 100 is required in order to pass any qualifying examination administered by the Board.

*History Note: Authority GS 87-42; 87-43.3; 87-43.4; 93B-8;
Eff. October 31, 1988;
Temporary Amendment Eff. August 31, 2001;
Amended Eff. July 1, 2011; January 1, 2006; July 18, 2002.*

21 NCAC 18B .0205 MINIMUM PASSING GRADE 21 NCAC 18B .0206 REGULAR EXAMINATIONS 21 NCAC 18B .0207 APPLICATION FOR REGULAR EXAMINATIONS 21 NCAC 18B .0208 SPECIALLY ARRANGED EXAMINATIONS

*History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44;
Eff. October 1, 1988;
Amended Eff. August 1, 1999 (Rule .0208); February 1, 1996 (Rule .0207); April 1, 1993 (Rule .0206); February 1, 1990 (Rule .0208);
Temporary Amendment Eff. August 31, 2001;
Repealed Eff. July 1, 2011.*

21 NCAC 18B .0209 FEES

(a) The examination fee for qualifying examinations is ninety dollars (\$90.00) for all classifications.

(b) The fee for review of a failed examination is twenty-five dollars (\$25.00). All reviews are supervised by the Board or staff.

(c) The examination fees for examinations in all classifications and the fees for examination reviews may be in the form of cash, check, money order, Visa or Mastercard made payable to the Board and must accompany the respective applications when filed with the Board.

(d) Examination fees received with applications filed for qualifying examinations shall be retained by the Board unless:

- (1) an application is not filed as prescribed in Rule .0210 of this Section, in which case the examination fee and application shall be returned; or
- (2) the applicant does not take the examination during the period for which application was made, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.

(e) Examination review fees are non-refundable unless the applicant does not take the review, files a written request for a refund, setting out extenuating circumstance, and the Board finds extenuating circumstances.

(f) Any fee retained by the Board shall not be creditable toward any future examination fee or examination review.

(g) Extenuating circumstances for the purposes of Paragraphs (d)(2) and (e) of this Rule are the applicant's illness, bodily injury or death, or death of the applicant's spouse, child, parent or sibling, or a breakdown of the applicant's transportation to the designated site of the examination or examination review.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44;

Eff. October 1, 1988;

Amended Eff. May 1, 1998; July 1, 1989;

Temporary Amendment Eff. June 30, 2000;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. July 1, 2011; January 1, 2008; December 4, 2002.

21 NCAC 18B .0210 APPLICATIONS DULY FILED

Examinations applications are considered as duly filed when the applicant has filed an application with the Board, on a form provided by the Board, together with the examination fee as prescribed in Rule .0209 of this Section and information sufficient to meet the minimum examination requirements applicable to the classification involved. By filing an application with the Board, an applicant authorizes the Board or the Board's staff to verify, in any manner the Board or staff deems necessary and appropriate, the information submitted on or in support of the application. The Board or staff shall determine whether applications are duly filed, process all applications, and return all applications not duly filed.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4; 87-44;

Eff. October 1, 1988;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. July 1, 2011; July 18, 2002.

21 NCAC 18B .0211 WAITING PERIOD BETWEEN EXAMINATIONS

(a) A person who fails a qualifying examination must wait before being eligible to take another examination in the same classification. The waiting period depends on the score on the failed examination, as follows:

Failed Examination Grade	Waiting Period
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74-65	3 months
64 and below	6 months

(b) A person who fails an examination in the same license classification three times must satisfactorily complete a minimum of 16 hours classroom education on the electrical code provided by a board-approved continuing education sponsor before retaking the examination.

(c) A person shall be considered a new applicant each time he applies to take an examination and must file an application on the standard application form and pay the required examination fee.

History Note: Authority G.S. 87-42; 87-43.3; 87-43.4;

Eff. October 1, 1988;

Amended Eff. July 1, 2011; January 1, 2006.

21 NCAC 18B .0402 LICENSE NAME REQUIREMENTS

(a) Issuance of License. The name in which a license is issued must be distinguishable upon the records of the Board from the name in which a license has already been issued. If the name requested, after deleting all spaces, punctuation marks, articles, prepositions, conjunctions and, whether abbreviated or not, "corporation," "incorporated," "company," or "limited," is not identical to the name in which a license has already been issued, it shall be distinguishable. The substitution of a numeral for a word that represents the same numeral shall not make the name distinguishable.

(b) Name In Which Business Must Be Conducted. All electrical contracting business, including all business advertising and the submission of all documents and papers, conducted in the state of North Carolina by a licensee of the Board shall be conducted in the exact name in which the electrical contracting license is issued.

(c) Notification of Address, Telephone Change and email address. All licensees shall notify the Board in writing within 30 days of any change in location, mailing address, telephone number or email address.

History Note: Authority G.S. 87-42;

Eff. October 1, 1988;

Amended Eff. July 1, 2011; March 1, 1999; February 1, 1996.

21 NCAC 18B .0601 LICENSES EXPIRING AND INDIVIDUALS QUALIFIED/JULY 1, 1970

21 NCAC 18B .0602 QUALIFIED INDIVIDUALS LISTED PRIOR TO JULY 1, 1970

History Note: Authority G.S. 87-42; 87-49;

Eff. October 1, 1988;

Amended Eff. February 1, 1996; February 1, 1990;

Repealed Eff. July 1, 2011.

21 NCAC 18B .0803 SCOPE OF SP-SFD LICENSE

(a) The following definitions apply in determination of the scope of work available to the holder of a SP-SFD license:

- (1) "Ancillary" with reference to the scope of a single family residential dwelling license, is an

appurtenance or out-building or similar structure associated with the single family dwelling such as a detached residential garage or carport, a farm or household equipment storage shed, a barn, a pump house, an electric fence, or yard lighting.

- (2) "Habitation" means the occupancy of dwelling primarily or exclusively for residential purposes and includes the incidental use of the dwelling or its ancillaries for a business, commercial, or professional activity, such as providing hair dressing, medical, legal, consulting, or tax services, if:

- (A) the activity is incidental to the primary use of the dwelling as a residence;
- (B) no stock-in-trade is either displayed or sold on the premises; and
- (C) the full-time or part-time services of no more than one person who does not live at the dwelling are used in the activity.

- (3) A "single family residential dwelling" is a building or a manufactured home that is designed and used only for habitation by one family and is not physically attached to any other building or structure. Cabanas, porches, room additions, and ancillary structures are considered part of a single family dwelling if they are designed for and used only for residential purposes by the occupants of the dwelling.

(b) A special restricted single family residential dwelling electrical contracting license (SP-SFD) authorizes the licensee to install, maintain, or repair only electrical wiring and devices that are in or on a single family residential dwelling or are ancillary to a single family residential dwelling. Electrical work within the scope of another special restricted license may be performed by a SP-SFD licensee without obtaining the other special restricted license as long as it is in or on a single family residential dwelling or is ancillary to a single family residential dwelling.

*History Note: Authority G.S. 87-42; 87-43.4;
Eff. October 1, 1988;
Amended Eff. July 1, 2011.*

21 NCAC 18B .0804 SCOPE OF SP-FA/LV LICENSE

(a) Definition. As used in this Chapter, fire alarm, burglar alarm and low voltage wiring systems are defined as:

- (1) wiring systems of 50 volts or less and control circuits directly associated therewith;
- (2) wiring systems that have a voltage in excess of 50 volts and consist solely of power limited circuits meeting the definition of a Class II or Class III wiring system in the National Electrical Code or paging systems not in excess of 70 volts;

- (3) line voltage wiring that has a voltage not in excess of 300 volts to ground and is installed from the load-side terminals of a disconnecting means or from a junction box, either of which has been installed by others, for the specific purpose of supplying the low voltage wiring system involved. Some low voltage wiring systems that meet this definition are exempt under Rule .0805;

- (4) interconnected components wired to a common control panel either as a standalone fire alarm system or as part of a combination burglar/fire system to monitor and annunciate the status of evidence of flame, heat, smoke or water flow within a building or structure in accordance with the requirements of the N.C. State Building Code and NFPA 72; or

- (5) alarm systems or devices used to detect burglary or theft as defined in G.S. 74D-2(a).

(b) Scope. A special restricted fire alarm/low voltage electrical contracting license authorizes the licensee to install, maintain, or repair only low voltage wiring and directly related wiring. Wiring is directed related if it:

- (1) originates at the load-side terminals of a disconnecting means or junction box that:

- (A) has been installed, complete with line-side connections, by others for the purpose of supplying the low voltage wiring system involved; and
- (B) is permanently and legibly marked to identify the low voltage wiring system supplied; and

- (2) is not installed in a location considered as hazardous under the National Electrical Code.

*History Note: Authority G.S. 87-42; 87-43.3;
Eff. October 1, 1988;
Amended Eff. July 1, 2011; January 1, 2010.*

21 NCAC 18B .0909 MALPRACTICE FURTHER DEFINED

(a) A licensee of the Board shall ensure that a permit is obtained from the local Code Enforcement official before commencing any work for which a license is required by the Board and ensure that a request for final inspection is made by him, the general contractor or the owner within 10 days of completion of the work for which a license is required, absent agreement with both the owner and the local Code Enforcement official. Absent agreement with the local Code Enforcement official, the licensee is not relieved by the Board of responsibility to arrange inspection until a certificate of compliance or the equivalent is obtained from the local Code Enforcement official or the licensee has clear and convincing evidence of his effort to obtain same.

(b) A licensed contractor shall not allow a permit to be obtained or his license number to appear upon a permit except for work which he or his employees perform, over which he will provide general supervision until the completion of the work, for which he holds an executed contract with the licensed general

contractor or property owner and for which he receives all contractual payments.

(c) The failure of a licensee or qualified individual to comply with the permit and inspection obligations outlined in this rule is considered by the Board as evidence of malpractice, gross incompetence or gross misconduct, in the use of license or qualification from the Board.

*History Note: Authority G.S. 87-42; 87-43; 87-46; 153A-357; 160A-417;
Eff. July 1, 2011.*

**21 NCAC 18B .1102 MINIMUM REQUIREMENTS
FOR COURSE SPONSOR APPROVAL**

(a) Each course sponsor shall submit an application for continuing education course sponsor approval to the Board on a form provided by the Board by March 1 prior to the fiscal year (July 1 to June 30) in which the course will be offered. The application shall include:

- (1) the name of the sponsor;
- (2) sponsor contact person, address, telephone number and email address;
- (3) course title and outline;
- (4) course contact hours;
- (5) schedule of courses, if established, including dates, time and locations;
- (6) course fee; and
- (7) names and credentials of each instructor.

(b) To qualify as an approved continuing education course sponsor:

- (1) all courses offered by the sponsor shall last no fewer than two contact hours required for the license classification pursuant to Rule .1101(b) of this Section; and
- (2) all courses offered by the sponsor shall cover articles of the current National Electrical Code; NFPA 72 and reference materials for Fire Alarm Systems; G.S. 87, Article 4; 21 NCAC 18B; or other subject matter satisfying the requirements in G.S. 87-44.1 as approved by the Board.

(c) The course sponsor or instructor shall provide the Board with a certified class roster of all attending qualified individuals within 10 days after the completion of each course.

(d) The course sponsor or instructor shall provide each attending qualified individual with a certificate of completion within 10 days after completion of each course.

(e) The Board shall approve or deny applications at its regularly scheduled meetings.

(f) Upon approval of the application, each approved sponsor shall agree to conduct courses in accordance with this Section and the application and shall indicate its agreement by signing a continuing education sponsor agreement form provided by the Board.

*History Note: Authority G.S. 87-42; 87-44.1;
Eff. October 1, 1990;
Amended Eff. July 1, 2011; January 1, 2010; January 1, 2006;
March 1, 1999.*

**21 NCAC 18B .1103 MINIMUM REQUIREMENTS
FOR COURSE APPROVAL**

(a) Each course sponsor shall submit an application for continuing education course approval to the Board on a form provided by the Board by March 1 prior to the fiscal year (July 1 to June 30) in which the course will be offered. The application shall include:

- (1) The name of the instructor;
- (2) Instructor's address, telephone number and email address;
- (3) The name of the course sponsor;
- (4) Course title and outline;
- (5) Course contact hours; and
- (6) Qualifications of instructor.

(b) The Board shall approve courses when:

- (1) The proposed course outline demonstrates content related to the technical, practical and business aspects of electrical contracting so as to have educational value consistent with the number of hours credit sought and the class is to be offered at a location conducive to learning; and
- (2) The course is to be taught by qualified individuals as defined in G.S. 87-41.1, by persons who have demonstrated subject matter knowledge on a test administered by the Board, by persons holding qualifications as a code enforcement official issued by the Code Official Qualification Board or by persons who otherwise establish knowledge of the material in the course outline.

(c) The Board may deny an application for course approval if it finds that the sponsor or proposed instructor has previously failed to comply with the terms of any agreement as provided in Paragraph (g) of this Rule or the rules of the Board.

(d) The application for course approval shall be submitted together with the application for continuing education course sponsor approval as prescribed in Rule .1102 of this Section.

(e) The Board shall approve or deny applications at a regular meeting.

(f) Appeals from denial of course approval will be heard at the next regular meeting of the Board.

(g) Upon approval of a course, the sponsor and the instructor teaching the approved courses shall agree to conduct courses in accordance with this Section and the information represented on the application, and shall indicate agreement by signing a continuing education agreement form provided by the Board.

*History Note: Authority G.S. 87-42; 87-44.1;
Eff. October 1, 1990;
Amended Eff. July 1, 2011; January 1, 2006; April 1, 1993.*

**CHAPTER 23 – IRRIGATION CONTRACTORS'
LICENSING BOARD**

21 NCAC 23 .0101 DIRECT SUPERVISION

As used in G.S. 89G-2, "Direct supervision" is defined as an individual licensed contractor having personal responsibility for and control over all aspects of irrigation work done at each job site.

*History Note: Authority G.S. 89G-2; 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0103 LICENSING

(a) Individual applicants for an irrigation contractor's license who can document to the Board's satisfaction that, during the entirety of the period from January 1 to June 29, 2009, the applicant was serving on active duty in the Armed Forces of the United States and, for that reason, could not prepare and submit an application for licensure until after being released from active duty are excused from taking the Board's licensing examination and shall be granted a license upon fulfilling all other licensing requirements.

(b) The Board shall deem an individual to have been unable to prepare and submit an application for licensure due to being on active duty upon receiving a letter or e-mail from the officer or senior non-commissioned officer commanding the unit in which the applicant served during the above-referenced period, certifying this to be the case.

(c) The Board shall also accept and consider other documentation in determining whether active military service made it impossible for the applicant to submit that application during that period of time.

(d) All licensees shall notify the Board of any change in their mailing address or location of their office within five days.

*History Note: Authority G.S. 89G-5; 89G-6; 105-249.2; S.L. 2008-177, s. 2; S.L. 2009-458; Section 7508 of the Internal Revenue Code; 10 U.S.C. 101;
Eff. July 1, 2011.*

21 NCAC 23 .0104 CONTINUING EDUCATION

(a) Continuing Education (CEU) credit shall not be obtained for the same course more frequently than every three years.

(b) Each individual licensee must earn ten hours of approved continuing education each calendar year. The 10 hours shall include at least two but not more than four hours of business education. The remaining hours of continuing education shall consist of training in landscape and turf irrigation technology.

(c) A licensed contractor may carry forward from the year earned to the following year up to 10 hours of continuing education.

(d) A licensed contractor shall provide proof of attendance for all continuing education upon request by the Board.

(e) Only continuing education classes or activities that have been approved by the Board as meeting the requirements of this Rule satisfy the licensee's continuing education requirement.

*History Note: Authority G.S. 89G-5; 89G-9;
Eff. July 1, 2011.*

21 NCAC 23 .0201 NOTICE OF HEARING: ANSWER

(a) The contents and manner of service of notice of hearing in a contested case shall be as prescribed in G.S. 150B-38(b) and (c).
(b) Any party who has been served with notice of hearing may file a written response as prescribed in G.S. 150B-38(d).

*History Note: Authority G.S. 89G-5; 150B-38;
Eff. July 1, 2011.*

21 NCAC 23 .0202 RIGHT TO HEARING

(a) Contested Cases. Disciplinary proceedings to enforce the provisions of G.S. 89G and 21 NCAC 23 are deemed to be "contested cases" within the meaning of G.S. 150B-2, and any person subject to such proceedings shall be given notice and the opportunity to be heard.

(b) Summary Suspension. Nothing within Paragraph (a) of this Rule shall abridge the right of the Board to summarily suspend a license or certification prior to hearing pursuant to G.S. 150B-3(c).

*History Note: Authority G.S. 89G-5; 150B-38;
Eff. July 1, 2011.*

21 NCAC 23 .0203 LOCATION OF HEARING

The location of the hearing in a contested case shall be as prescribed in G.S. 150B-38(e).

*History Note: Authority G.S. 89G-5; 150B-38;
Eff. July 1, 2011.*

21 NCAC 23 .0204 INTERVENTION; DISCOVERY

(a) The intervention of persons not initially parties to a contested case is governed by G.S. 150B-38(f). Petitions or motions to intervene must be in writing. The Board shall determine whether to grant or deny intervention and shall so notify the petitioner and all parties in writing.

(b) Parties in a contested case may engage in discovery pursuant to the provisions of the Rules of Civil Procedure, G.S. 1A-1.

*History Note: Authority G.S. 89G-5; 150B-38; 150B-39;
Eff. July 1, 2011.*

21 NCAC 23 .0205 SUBPOENAS

The authority of the Board to issue or revoke subpoenas in preparation for, or in the conduct of, contested cases is governed by G.S. 150B-39. If a subpoena is issued at the request of a party and not on the Board's own motion, that party shall bear the cost of service.

*History Note: Authority G.S. 89G-5; 150B-38;
Eff. July 1, 2011.*

21 NCAC 23 .0206 CONDUCT OF HEARING

(a) Hearings in contested cases shall be conducted by a majority of the Board. The chair shall serve as presiding officer unless he is absent or disqualified, in which case the vice chair shall preside. Hearings shall be conducted as prescribed in G.S. 150B-40.

(b) Disqualification. An affidavit seeking disqualification of any Board member, if filed in good faith and in a timely manner, shall be ruled on by the remaining members of the Board. An affidavit is considered timely if it is filed:

- (1) Prior to the hearing; or
- (2) As soon after the commencement of the hearing as the affiant becomes aware of facts which give rise to his belief that a Board member should be disqualified.

(c) Evidence. The admission of evidence in a hearing in a contested case shall be as prescribed in G.S. 150B-41.

History Note: Authority G.S. 89G-5; 150B-38; Eff. July 1, 2011.

21 NCAC 23 .0207 DECISION OF BOARD

(a) The form and content of the Board's decision in a contested case shall be as prescribed by G.S. 150B-42(a), and its decision shall be served upon the parties in a manner consistent with the statute.

(b) At the conclusion of the hearing and deliberations, the Board shall announce its findings of fact and conclusions of law. If the Board concludes that the hearing respondent has violated a provision of the rules in this Chapter or of G.S. 89G, it shall announce the nature and extent of any sanction it orders be imposed upon the hearing respondent. The Board may then direct its legal counsel, the respondent's counsel, if represented, or such independent legal counsel as may be provided by the North Carolina Department of Justice for the purpose of advising the Board in the course of that hearing, to draft a proposed order consistent with its announcement. The person tasked with drafting the order shall submit the original to the Board's administrator and a copy to all other counsel participating in the hearing at least 10 days prior to the Board's next regularly scheduled meeting.

(c) The official record of the hearing in a contested case shall contain those items specified in G.S. 150B-42(b).

History Note: Authority G.S. 89G-5; 150B-38; Eff. July 1, 2011.

21 NCAC 23 .0301 IRRIGATION RECORD DRAWING

(a) As required in Rule .0511 of this Chapter a record drawing is a graphic representation of the irrigation system that was installed and other constructed features. All record drawings shall:

- (1) accurately portray the site; and
- (2) be legible and reproducible.

(b) Site information shall include all development (e.g. building edges, walks, walls, roads), irrigated areas, turf areas, and planted areas. The drawings shall show the sprinkler system as it is installed.

(c) The record drawings shall include locations and product information regarding the location of:

- (1) emergency shut-off valve(s);
- (2) water source(s);
- (3) backflow devices;
- (4) all types of valves;

- (5) all wire splices;
- (6) all wire paths;
- (7) all controllers;
- (8) all sensors;
- (9) all grounding location(s) and type(s);
- (10) all pumps;
- (11) all filters;
- (12) all quick couplers or any other water connection points; and
- (13) all main line piping.

(d) All manual and automatic valve locations shall be shown with actual measurements to permanent reference points so they may be located in the field. Proper permanent reference points are buildings, drainage inlets, sidewalks, curbs, light poles, and other permanent, immovable objects.

(e) Record drawings shall be labeled "Record Drawings".

History Note: Authority G.S. 89G-5(15); Eff. July 1, 2011.

21 NCAC 23 .0402 PIPING

(a) The following rules of maximum safe flow rate apply to irrigation systems connected to municipal and community water suppliers, with the lowest safe flow rate prevailing as the design minimum standard:

- (1) The maximum allowable pressure loss through the meter shall be less than 10 percent of the static pressure at the meter.
- (2) The maximum flow rate through the meter shall not exceed 75 percent of the maximum safe flow rate through the meter.
- (3) Piping in irrigation systems shall be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC), polyethylene (PE) and high density polyethylene (HDPE) pipe and seven feet per second for metal pipe.

(b) An irrigation contractor shall follow the following criteria for piping:

- (1) The manufacturer's recommendations for all pipe usage and fabrication shall be followed.
- (2) The minimum PVC pipe thickness shall be PR200 — (SDR21) with sch40 fittings.
- (3) PVC piping from the above-grade backflow to below grade shall be a minimum of sch80.
- (4) All PVC risers shall be a minimum thickness of sch80.
- (5) Thrust blocking details and locations shall be included when bell and gasket pipe is used.
- (6) Exposed PVC piping shall be protected from UV degradation per the manufacturer's recommendations.

History Note: Authority G.S. 89G-5; Eff. July 1, 2011.

21 NCAC 23 .0403 WATER SOURCE

(a) A water source shall meet peak demands for landscape water with an irrigation duration that is within the site's operational tolerances when the site is functioning at its most intense use.

(b) An irrigation duration shall meet the user needs of the site. The user's needs shall be considered in determining the correct size of the supply meter, cistern, lake, or lake pump intake and pump size. A contractor shall also comply with local statutes and ordinances that dictate time of day and day of week watering, anticipated irrigation intervals, or site uses that may dictate different irrigation durations.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0405 DRIP/MICROIRRIGATION

For zones with drip or microirrigation, an irrigation contractor shall:

- (1) provide a means of filtration at the control valve to remove particulate matter;
- (2) Use separate drip/microirrigation zones where differing plant water requirements and root zone depths make such zones practical;
- (3) To improve overall uniformity specify pressure-compensated devices;
- (4) Specify pressure regulation upstream from the drip/microirrigation components to anticipate periodic increases in the pressure of municipal or community water sources when there is flushing or other maintenance on the water supply system. Pressure regulating devices may be omitted only when the maximum possible pressure is known to be lower than the maximum allowable pressure for all drip/microirrigation components;
- (5) To improve system uniformity connect (loop) the ends of individual laterals; and
- (6) To minimize ingestion of soil and other contaminants into the emitters, use air release valves.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0407 IRRIGATION SYSTEM DISCLOSURE CHECKLIST

The installer shall use a system checklist that includes enough information for the client or end-user to understand the scope of work, including types of equipment, coverage standards and warranty.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0501 GENERAL REQUIREMENTS

(a) When an irrigation contractor determines that the design provided by others does not meet the minimum standards set forth by the rules of this Chapter or local requirements, the irrigation contractor shall notify the designer in writing of such deficiencies.

(b) All irrigation system components shall be installed in accordance with manufacturer's specifications, local code requirements and the requirements of the rules of this Section.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0502 SITE CONSIDERATIONS

(a) An irrigation contractor shall confirm all property corners and lines that will determine the borders of landscaped or irrigated areas including any Right of Way (local, state or federal).

(b) The irrigation contractor shall address and note any encroachment agreements and other easement requirements.

(c) Before the irrigation contractor and those working under his supervision do any excavation he shall call 1-800-632-4949 or 811 or go to www.ncocc.org to have major utilities located on the subject property by the appropriate utility companies. Installation shall not be started until all underground utilities are located and marked.

(d) An irrigation contractor shall review the site where the irrigation system is to be installed with the owner to identify private underground lines or structures and locate those that present a potential problem before digging (i.e. Low voltage lighting wires, propane gas tanks and lines, private power lines to out buildings, drainage lines, septic field lines and tanks).

(e) In the case of new landscape construction where a landscape plan is provided, an irrigation contractor shall verify that the landscape plan is the most current plan available and is not subject to change before starting the installation.

(f) If no landscape plan exists or the landscaping is in place, an irrigation contractor shall review the site with owner or landscape designer to determine what the irrigation needs of the site are. The irrigation contractor shall address specific issues, including:

- (1) plant water needs;
- (2) soil type;
- (3) root depth;
- (4) microclimates; and
- (5) grades.

(g) An irrigation contractor shall inform the owner or landscape designer of the importance of designing the irrigation system to meet the needs of the landscape.

(h) An irrigation contractor shall review planting plans prior to installation to minimize conflicts between larger plants, existing root zones and irrigation heads and review construction plans for conflicts between hardscape and sprinkler head placement.

(i) An irrigation contractor shall inform the property owner and irrigation designer of unusual or abnormal soil conditions which may impact the design and management of the irrigation system.

(j) Where deviations from the design are required (e.g., routing pipe around a tree or other structure or adding sprinklers to an area larger than the plan shows), an irrigation contractor shall consult with the designer prior to making the change to ensure that the change is within the design performance specifications.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0503 WATER SUPPLY

- (a) Before commencing installation, an irrigation contractor shall verify that the point of connection, water supply, flow rate and static and dynamic pressures meet design criteria.
- (b) All new irrigation systems that have a pressurized water supply under continuous pressure must include an isolation valve. The isolation valve's location must be in the main line before the first zone valve or quick coupler.
- (c) If a master valve is used, it shall be installed on the discharge side of the backflow prevention device on all new installations.
- (d) If the water supply is potable water, an irrigation contractor shall verify that a backflow prevention device is installed upstream of the irrigation system before pressurizing the irrigation mainline.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0504 SYSTEM LAYOUT

- (a) An irrigation contractor shall install the irrigation system's components according to the design specifications and manufacturer's performance standards.
- (b) The spacing of microirrigation devices shall be selected to meet the maximum irrigation requirements of the plants being irrigated. The flow rate of the microirrigation devices, soil types and plant types must all be considered in selecting the spacing of the microirrigation devices.
- (c) The maximum spacing between sprinklers must not exceed the radius listed in the manufacturer's specifications.
- (d) An irrigation contractor shall determine the radius by referring to the manufacturer's specifications for a sprinklers at a specific operating pressure.
- (e) Irrigation systems shall not spray water onto or over surfaces made of concrete, asphalt, brick, wood or any other continuous impervious material, such as walls, fences, sidewalks and streets. The irrigation system may spray water onto such surfaces due to irregularly-shaped hardscapes, wind drift or fixed spray patterns of sprinklers.
- (f) An irrigation contractor shall insure that no water is allowed to run off a site onto impervious surfaces where the water flows for a distance of more than 15 feet during any irrigation day or into a storm water inlet.
- (g) All irrigation systems shall use check valves and stronger springs to hold the water in the piping system.
- (h) When the irrigation contractor determines that water pressure at the head is too low to operate a sprinkler he shall correct this problem with a solution in accordance with Paragraph (a) of this Rule.
- (i) An irrigation contractor shall provide an irrigation schedule to the property owner or his agent that limits the amount of water applied in any one given time period.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0505 TRENCHING AND PIPING

- (a) All portions of an irrigation system that do not meet the standards in this Rule must be noted on the record drawing.

- (b) An irrigation contractor shall protect the root systems of the trees on the site by not trenching across the established root systems of existing trees and shrubs.
- (c) When the irrigation contractor finds that it is necessary to trench into the root zone of an established plant, trenching shall be done so that the trench is at a right angle to the base of the tree or shrub.
- (d) An irrigation contractor shall cut damaged roots cleanly at a right angle.
- (e) Piping in irrigation systems must be designed and installed so that the flow of water in the pipe will not exceed a velocity of five feet per second for polyvinyl chloride (PVC), polyethylene (PE) and high density polyethylene (HDPE) pipe and seven feet per second for metal pipe.
- (f) The main line and lateral line piping must be installed to provide a minimum of 12 inches between the top of the pipe and the natural grade.
- (g) The bottom of the trench shall be smooth and provide a flat bed on which to rest the pipe.
- (h) The irrigation contractor shall clean backfill material of any debris that may damage the pipe.
- (i) If a utility, man-made structure or roots create an unavoidable obstacle which makes the 12 inch depth coverage requirement impractical, the piping shall be installed to provide a minimum of four inches of select backfill between the top of the pipe and the natural grade if the piping is installed inside a larger section of pipe for added protection.
- (j) When swing joints are used, the depth of the pipe must allow the swing joint to operate as designed.
- (k) All trenches and holes created during installation of an irrigation system must be backfilled and compacted to the final grade. The trench shall be compacted in lifts no greater than six inches to insure proper compaction.
- (l) All new irrigation systems that are installed using PVC shall be cleaned with a PVC pipe cleaner or primer on male and female ends prior to applying the PVC cement.
- (m) When the irrigation contractor uses PR 200 pipe, primer shall not be used.
- (n) The irrigation contractor shall use the manufacturer's approved lubricant when assembling Bell and Gasket Pipe and Fittings.
- (o) The irrigation contractor shall use Teflon tape on all threaded fittings, wrapping the tape three times to insure a proper seal.
- (p) When the irrigation system uses reclaimed water the irrigation contractor shall use purple pipe or mark the pipe with purple tape placed above all piping in the system. Tape must be within six inches of the top of the pipe. The irrigation contractor shall use purple valve box covers and purple quick coupler flaps and place an eight inch by eight inch sign with purple background stating "RECLAIMED WATER-DO NOT DRINK" and "AQUA DE RECUPERION-NO BEBER."

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0506 ELECTRICAL

- (a) This Rule applies to control wiring of thirty (30) volts or less, or where the installation, construction, maintenance or

repair of devices is exempt from the requirement of licensure as an electrical contractor under G.S. 87-43.1 and 21 NCAC 18B .0805.

(b) Underground electrical wiring used to connect an automatic controller to any electrical component of the irrigation system must be listed by Underwriters Laboratories as acceptable for burial underground.

(c) Electrical wiring that connects any electrical components of an irrigation system must be sized according to the manufacturer's recommendation.

(d) Electrical wire splices which are exposed to moisture must be waterproofed using a UL Listed device.

(e) Underground electrical wiring that connects an automatic controller to any electrical component of the irrigation system must be buried with a minimum of twelve inches of backfill.

(f) The wire connections on the two wire path of two wire control systems shall be made using devices rated for the higher voltage of the control system.

(g) Multi-strand wire may be used if the material exposed is of rated minimum wire size of 18 AWG for underground application and if the splicing device used water proofs the outer most casing of the wire.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0507 GROUNDING

(a) This Rule applies to control wiring of thirty (30) volts or less, or where the installation, construction, maintenance or repair of devices exempt from the requirement of licensure as an electrical contractor under G.S. 87-43.1 and 21 NCAC 18B .0805.

(b) An irrigation contractor shall ground all components of the irrigation system per manufacturers' recommendations.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0508 SPRINKLERS

(a) Emission devices must be installed to operate at or above the minimum and not above the maximum sprinkler head pressure as published by the manufacturer for the nozzle and emission device spacing that is used.

(b) Sprinklers shall be set perpendicular to the grade. In turf areas sprinklers shall be set at a height recommended by the manufacturer. Sprinklers installed on athletic fields shall be equipped with rubber covers on the sprinkler and the sprinklers shall be installed at or below the grade per the manufacturer's specifications.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0509 CONTROLLER

All automatically controlled irrigation systems must include sensor or other technology designed to inhibit or interrupt operation of the irrigation system during periods of adequate moisture or rainfall. Rain or moisture shut-off technology must

be installed according to the manufacturer's published recommendations.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0510 INITIAL SYSTEM START UP

An irrigation contractor shall perform a post installation inspection to verify that the system meets the design criteria including static water pressure at point of connection, working (dynamic) water pressure at sprinklers, head radius, head adjustment, that all sensors are operational and that there are no leaks in the system.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0511 OWNER'S MANUAL

(a) A permanent sticker which contains the irrigation contractor's name, license number, company name and telephone number, date of completion of the installation and the dates of the warranty period shall be affixed to each automatic controller installed by an irrigation contractor. The information contained on the sticker must be printed with waterproof ink.

(b) The irrigation contractor shall, upon completion of any irrigation system or addition to an existing irrigation system provide an owners manual to the owner or owner's representative containing the following:

- (1) A maintenance checklist of items such as the nozzles, heads, microirrigation components, pumps, and filters that require maintenance and the recommended frequency for the service to insure that the irrigation system remains in good working order.
- (2) A report on the system's specifications and a performance by station or zone that includes the plant type, soil type, average root zone depth, precipitation rate, target gallons per minute flow rate, recommended operating pressure range, and maximum recommended cycle run time without runoff. The irrigation contractor shall also maintain a copy of this report at his place of business for a period not less than three years.
- (3) A seasonal watering schedule based on monthly historical reference evapotranspiration (historical ET) data, monthly effective rainfall estimates, plant landscape coefficient factors, and site factors.
- (4) Manufacturer's manual for the automatic controller and all sensors.
- (5) Winterization instructions and precautions on protection of the potable water supply.
- (6) A written explanation regarding the operation of the irrigation controller, valves, sensors, pressure regulators, backflow prevention device and sprinklers. An irrigation contractor shall review advanced programming features such as multi-cycle irrigation to prevent run-

- off and the use of the percentage water increase or decrease function. An irrigation contractor shall educate the owner on features and capabilities of the system including the maintenance requirements.
- (7) The irrigation record drawing that accurately portray the site, and is legible and reproducible. Site information shall include all development (e.g. building edges, walks, walls, roads,), irrigated areas, turf areas, and planted areas. The drawings shall show the sprinkler system as it is installed. An irrigation contractor shall include locations and product information regarding the location of the emergency shut-off valve, meters, backflow devices, valves, controllers, pumps, wire paths, wire splice locations and main line piping. All manual and automatic valve locations shall be shown with actual measurements to permanent reference points so they may be easily located in the field. Examples of permanent reference points include buildings, drainage inlets, sidewalks, curbs, light poles. The statement, "This irrigation system has been designed and installed in accordance with all applicable state and local laws, ordinances, rules, regulations or orders. I have tested the system and determined that it has been installed according to the Irrigation Plan and is properly adjusted for the most efficient application of water at this time" shall be included in the irrigation drawing record. The irrigation contractor shall provide a plan to scale that includes locations and product information regarding the lateral piping, sprinklers, and rain switches or sensors.

History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.

21 NCAC 23 .0601 PURPOSE

This Section sets minimum standards for water efficiency. The purpose of irrigation system management is to ensure that the irrigation system performs optimally, ensuring efficient and uniform distribution of water.

History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.

21 NCAC 23 .0602 BASIC SYSTEM MAINTENANCE PRACTICES

- (a) An irrigation contractor shall establish a systematic maintenance schedule for inspecting, testing and reporting on performance conditions of the irrigation system to the owner.
- (b) An irrigation contractor shall report any deviations from the original design to the owner.
- (c) As part of a systematic maintenance program, an irrigation contractor shall tell the owner to:

- (1) Check, adjust and repair irrigation equipment at least once a year;
 - (2) Post irrigation schedules, zone location map and other relevant programming information in each controller or identify for the irrigation contractor and his employees where information is kept;
 - (3) Inspect the irrigation system after annual activation in the spring, and bring the system up to intended operating conditions;
 - (4) Maintain irrigation systems to keep water off impervious surfaces;
 - (5) Repair all leaks immediately or shut off a zone or zones with leaks. If leaks are in main line the owner shall turn water off at the point of connection. Signs of leakage include overgrown or particularly green turf areas, soggy areas around spray heads and above ground hoses, jammed spray heads and torn hoses. In drip systems, leakage problems may be due to damaged tubing from foot traffic or gnawing by animals. The irrigation contractor shall flush pipes, valves, sprinklers, drip components and filters after repairs are completed; and
 - (6) As plants mature move sprinklers to preserve system performance. The irrigation contractor shall add additional sprinklers or other hardware as required to compensate for blocked spray patterns or changes in the irrigation needs of the landscape. The owner shall ensure that system modifications are in keeping with design specifications and do not cause landscape water demand to exceed the hydraulic capacity of the system.
- (d) An irrigation contractor who provides monthly inspections shall:
- (1) Verify that the water supply and pressure are adequate for proper operation;
 - (2) Adjust valves and flow regulators for proper pressure and flow operation. Valves must shut off tightly to prevent leakage, and operate without abruptly opening or closing to prevent damage to the irrigation system caused by water hammer and pressure surges;
 - (3) Verify that sprinklers are properly adjusted—check the nozzle, arc, radius, level and attitude with respect to slope;
 - (4) Verify that sensors are working properly and are within their calibration specifications;
 - (5) Look for debris (e.g., rocks, sand, and soil) lodged in sprinklers and drip emitters;
 - (6) Examine filters and clean filtration elements at least once a year or when the irrigation system fails to operate properly due to clogged filters;
 - (7) Verify proper operation of the controller. Confirm correct date and time input and functional back-up battery at least once a year;

- (8) Repair or replace broken hardware and pipelines with originally specified materials or equal, thereby restoring the system to the original design specifications;
- (9) Complete repairs to support the integrity of the irrigation design and to minimize the waste of water;
- (10) Notify the end-user (or owner) of any deviations from the original design; and
- (11) Test all repairs.

(e) An irrigation contractor shall ensure that the replacement hardware used for system repairs matches the existing hardware specifications, and is in accordance with the design.

(f) An irrigation contractor shall establish a "winterization" protocol in areas where low temperatures will damage an irrigation system. Winterization consists of removing enough water from the irrigation system and equipment so that no damage occurs to any part of the irrigation system during temperatures below thirty-two (32) degrees Fahrenheit. This is accomplished by turning off the main water supply, opening all drains, and if necessary using compressed air to remove water from the irrigation system.

(g) An irrigation contractor shall establish an "activation/start-up" protocol. Activation consists of re-pressurization of the irrigation system, and inspection.

(h) Whenever possible, an irrigation contractor shall update and retrofit existing irrigation systems with new technology that will reduce overall water consumption.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0603 SCHEDULING

(a) An irrigation contractor shall recommend to the owner or his representative that:

- (1) The owner manage the irrigation schedule to respond to the changing and seasonal requirements for plant water needs in the landscape;
- (2) The owner reset automatic controllers according to the seasonal plant needs;
- (3) The owner adjust controllers upon completion of the grow-in phase of a landscape or new plant material and should be changed, as soon as possible;
- (4) The owner inspect irrigation controllers at least monthly to change irrigation frequencies or run times; and
- (5) The owner should avoid irrigation during rain events.

(b) An irrigation contractor shall recommend to the owner or his representative that he understand the capabilities of the irrigation controller and use these features to efficiently irrigate.

(c) An irrigation contractor shall:

- (1) Identify soil type microclimates, and root depths of each zone;
- (2) Calculate the run-time of each zone to supply the needed water based upon precipitation rate of the sprinkler zones, the water-holding

capacity of the soil, the changing weather conditions and the plant's water requirements; and

- (3) Set initial run times and intervals to minimize runoff.

(d) An irrigation contractor shall advise the owner to periodically verify that the plant material is healthy and that soil moisture is adequate. An irrigation contractor shall use a soil probe to visually inspect root depth, soil structure and moisture.

(e) An irrigation contractor shall educate the end user of the irrigation system, informing him that plant material water needs change during the year and the watering schedule should change accordingly.

*History Note: Authority G.S. 89G-5;
Eff. July 1, 2011.*

21 NCAC 23 .0701 FEE SCHEDULE

(a) The Board shall charge the following fees:

- (1) Application fee: one hundred dollars (\$100.00);
- (2) Examination fee: two hundred dollars (\$200.00);
- (3) License renewal: one hundred dollars (\$100.00);
- (4) Late renewal fee: fifty dollars (\$50.00);
- (5) License by reciprocity: two hundred fifty dollars (\$250.00);
- (6) Corporate license: one hundred dollars (\$100.00); and
- (7) Duplicate license: twenty-five dollars (\$25.00).

(b) When the Board uses a testing service for the preparation, administration or grading of examinations, the Board shall charge the applicant the actual cost of the examination services.

*History Note: Authority G.S. 89G-5; 89G-10;
Eff. July 1, 2011.*

**CHAPTER 31 – MARRIAGE FAMILY THERAPY
LICENSURE BOARD**

21 NCAC 31 .0202 REVIEW PROCEDURE

(a) Copies of all materials required by Rule .0201 of this Chapter shall be mailed by the applicant to the Board Office on Board provided forms for receipt one month prior to the scheduled meeting during which the application will be reviewed. Applications shall be reviewed by the Board at scheduled meetings or special meetings called for such purpose by the Board Chair.

(b) If the educational requirements are met, and the application is approved by the Board, the Board shall inform the applicant of the approval, and shall give the applicant information regarding the National Marriage and Family Therapy Examination.

(c) If the education requirements are not met, or the application is otherwise not approved by the Board, the Board shall inform the applicant of the disapproval, with an explanation of the areas

which are deficient. Applicants may remedy deficiencies within two years from the date of notification of such without having to reapply. After two years of application inactivity, the file shall be closed and a new application and fee is required.

(d) If during the review process, questions arise from any source which may pertain to the applicant's qualifications for licensing, the Board may seek to resolve the questions by communication with the person who made the comments or any other person(s), or may refer the matter to counsel or to a member or employee of the Board for investigation.

(e) If an application is denied, the grounds for denial shall be given to the applicant in writing. An applicant who has been denied licensure may file a request for hearing pursuant to G.S. 150B-38 within 15 days of notice of the denial. In lieu of a hearing, the applicant may present additional written material in support of the application, which shall be reviewed at the next scheduled Board meeting.

History Note: Authority G.S. 90-270.51(b);
Eff. August 1, 1984;
Amended Eff. July 1, 2011; March 1, 1996; April 1, 1989.

21 NCAC 31 .0301 WRITTEN EXAMINATION

(a) Licensure as a North Carolina Marriage and Family Therapist or as a Licensed Marriage and Family Therapy Associate requires passing the National Marriage and Family Therapy Examination.

(b) The examination shall be given at least biannually.

(c) The passing score on the examination shall be determined by the Board in collaboration with the testing agency.

(d) The examination may be taken after the Board approves the application.

(e) Special Administrations. Applicants with disabilities which meet compliance requirements of the Americans with Disabilities Act of 1990 (ADA) may request accommodations for testing. Special test administrations shall be as comparable as possible to a standard administration. The applicant shall contact the Board to request any accommodation four weeks in advance of the testing to give sufficient time to process the request.

History Note: Authority G.S. 90-270.51(b); 90-270.55;
Eff. August 1, 1984;
Amended Eff. July 1, 2011; March 1, 1996.

21 NCAC 31 .0302 REPORTING OF SCORES
21 NCAC 31 .0303 FIRST REEXAMINATION

History Note: Authority G.S. 90-270.51(b); 90-270.55(e);
Eff. August 1, 1984;
Amended Eff. March 1, 1996; April 1, 1989;
Repealed Eff. July 1, 2011.

21 NCAC 31 .0401 LICENSURE RENEWAL FORM

(a) Licensees shall provide documentation of compliance with Rule .0701 of this Chapter to the Board on the forms provided by the Board.

(b) The Board shall waive the license application renewal fee for any individual who is currently licensed by and in good

standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

(c) The Board shall extend the deadline for filing a license renewal application for any individual who currently holds a license and is in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The extension shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

History Note: Authority G.S. 90-270.51(b); 90-270.58; 93B-15;
Eff. August 1, 1984;
Amended Eff. July 1, 2011; March 1, 1996.

21 NCAC 31 .0502 ONGOING SUPERVISION

(a) On-going supervision as contained in G.S. 90-270.54(a)(1)b means face-to-face conversation with an AAMFT Approved Supervisor, or a person who otherwise meets the standards set forth by AAMFT which are incorporated by the Board by reference. These incorporated standards include subsequent amendments and additions. A copy of these standards may be obtained at no charge by writing the American Association of Marriage and Family Therapy at 112 Alfred Street, Alexandria, Virginia 22314-3061 or at their website, www.aamft.org.

(b) On-going supervision shall focus on the raw data (quantitative information about the client) from the supervisee's continuing clinical practice, which shall be available to the supervisor through a combination of direct observation, co-therapy, written clinical notes, and audio and video recordings.

(c) None of the following constitutes ongoing supervision:

- (1) Peer supervision, i.e., supervision by a person of equivalent, rather than superior, qualifications, status and experience;
- (2) Supervision by current or former family members of your immediate or extended family, or any other persons where the nature of the personal relationship prevents or makes difficult the establishment of a professional relationship;
- (3) Administrative supervision - clinical practice performed under administrative rather than clinical supervision by an institutional director or executive;
- (4) A primarily didactic process wherein techniques or procedures are taught in a classroom, workshop or seminar; or
- (5) Consultation, staff development or orientation to a field or program or role-playing of family interrelationships as a substitute for clinical practice in a clinical situation.

(d) Applicants for licensure must have accumulated a minimum of 200 hours of approved ongoing supervision concurrent with the completion of the 1,500 hours of clinical experience required

by G.S. 90-270.54(a)(1)b. Licensed Marriage and Family Therapy Associates must remain under on-going supervision for at least one hour monthly until licensed as a Licensed Marriage and Family Therapist.

(e) Graduates of marriage and family therapy programs who have completed 200 hours of approved ongoing supervision within their degree shall complete a minimum of 25 hours of approved ongoing supervision concurrently with the completion of the remaining hours of post-degree clinical experience required by G.S. 90-270.54(a)(1)b. Graduates of marriage and family therapy programs may apply up to 500 hours of direct client contact obtained during their program toward the 1,500 required as long as those hours were obtained under the direct supervision of an AAMFT Approved Supervisor or AAMFT Supervisor Candidate. Applicants for the Marriage and Family Therapy license must have documented a minimum of 500 relational hours toward their required 1,500 hours. Relational hours are defined as hours spent providing therapy with more than one client in the room who are all part of the same treatment plan. Relational hours may also include face to face communication with members of the larger system who are also working in direct collaboration with the same client(s). This contact may only be counted if it is authorized via written release by the client(s) or required by law for the purpose of developing and carrying out a treatment plan.

(f) Supervision Reports shall be submitted on supervision report forms provided by the Board. Supervision report forms are contained within the licensure application packet which may be obtained at no charge by writing the Board at their current address of Post Office Box 37669, Raleigh, North Carolina 27627 or downloaded from www.ncmft.org.

History Note: Authority G.S. 90-270.51(b); 90-270.54(1)b; Eff. August 1, 1984; Amended Eff. July 1, 2011; May 1, 1996; April 1, 1989.

21 NCAC 31 .0503 EQUIVALENCY

(a) An appropriate course of study for an "equivalent" degree under G.S. 90-270.47(6)e is defined as a minimum of or quarter hour equivalent to a 45-semester hour graduate program. Thirty-three semester hours or their quarter hour equivalent, shall consist of the following content and clinical training:

- (1) Theoretical Foundation of Marriage and Family Therapy (six semester hours);
- (2) Assessment and Diagnosis (three semester hours);
- (3) Practice of Marriage and Family Therapy (six semester hours);
- (4) Human Development and Family Relations (three semester hours);
- (5) Professional Identity and Ethics (three semester hours);
- (6) Research in Marriage and Family Therapy (three semester hours); and
- (7) Supervised Clinical Practicum or Internship (nine semester hours).

The remaining 18 semester hours shall consist of course work appropriate to the disciplinary specialty in which the degree is granted.

(b) Applicants who were enrolled in a related degree program on or before July 1, 2011 shall be considered for licensure in accordance with this Paragraph. An appropriate course of study for an "equivalent" degree under G.S. 90-270.47(1)e is defined by the Board to consist of a 45 semester hour graduate program. Twenty-seven semester hours consist of the following content and clinical training:

- (1) General Family Studies (six semester hours). This category is a broad and inclusive one which may include courses in marriage, family relations, child development, family sociology, or other such related topics in which the marriage and family content is evident.
- (2) Marriage and Family Therapy Theory (six semester hours). This category includes specific and extensive content in systems theory as well as other theoretical approaches to marriage and family therapy. In addition, the Board shall consider course work in this category which exceeds six semester hours to be applicable toward meeting the requirements for General Family Studies.
- (3) Individual Studies. Theories of Personality (three semester hours), and psychopathology or abnormal behavior (three semester hours).
- (4) Clinical Practicum in Marriage and Family Therapy (nine semester hours or 20 hours per week for 12 months).

The remaining 18 semester hours shall consist of course work appropriate to the disciplinary specialty in which the degree is granted.

History Note: Authority G.S. 90-270.47(1)e; 90-270.51(b); 90-270.54(1)a; Eff. August 1, 1984; Amended Eff. July 1, 2011; March 1, 1996; April 1, 1989.

21 NCAC 31 .0504 ALTERNATIVE TO CLINICAL PRACTICUM

In lieu of the clinical practicum requirements under Rule .0501 or Rule .0503 of this Section, the Board shall accept evidence of a supervised clinical practicum defined as at least 120 clinical contact hours with at least 24 hours of supervision obtained subsequent to the granting of a related degree in an equivalent course of study provided the supervision meets the requirements of "approved supervision" under Rule .0502 of this Section. The hours of supervision must be reported to the Board on the Board forms.

History Note: Authority G.S. 90-270.51(b); Eff. August 1, 1984; Amended Eff. July 1, 2011; March 1, 1996.

21 NCAC 31 .0506 DIRECT CLIENT CONTACT

(a) As used in this Chapter, direct client contact is defined as face-to-face (therapist and client) therapy with in individuals, couples, families, or groups from a systemic perspective and includes relational hours as defined in 21 NCAC 31 .0506(d). Direct client contact must:

- (1) Relate to client treatment plans;
- (2) Be goal directed; and
- (3) Assist client to affect change in cognition, affect and behavior.

(b) Assessments (intake and otherwise) may be counted up to 250 hours of direct client contact. Assessment is a clinical encounter that involves gathering of current and historical data from a client that is then used to determine what type of therapeutic service is most appropriate. If the individual who conducted the assessment does not provide the therapeutic service, it is considered an assessment hour only.

(c) Client psycho-education may be counted up to 250 hours direct client contact. Psycho-education refers to a treatment approach that provides education for individuals and families in assistance with emotional, mental, social and relational disturbances.

(d) The following are not direct client contact and may not be counted:

- (1) Observing therapy without actively participating in follow-up therapy at some point during immediately following the session;
- (2) Record keeping;
- (3) Administrative activities;
- (4) Supervision; and
- (5) Client contact while not receiving supervision.

*History Note: Authority G.S. 90-270.51(b); 90-270.54(1)b;
Eff. March 1, 1996;
Amended Eff. July 1, 2011.*

21 NCAC 31 .0609 ETHICAL PRINCIPLES

(a) The Board adopts the code of ethical principles of the American Association for Marriage and Family Therapy (AAMFT) published as the AAMFT CODE OF ETHICAL PRINCIPLES FOR MARRIAGE AND FAMILY THERAPISTS by reference including subsequent amendments and editions. The current code is published on the AAMFT's website (www.aamft.org).

(b) Each applicant or licensee shall follow this code of ethics.

(c) A copy of this code of ethics may be obtained at no charge by writing the American Association for Marriage and Family Therapy, 112 Alfred Street, Alexandria, VA 22314-3061 or from www.aamft.org.

*History Note: Authority G.S. 90-270.51(b); 90-270.60(5);
Eff. March 1, 1996;
Amended Eff. July 1, 2011.*

21 NCAC 31 .0701 REQUIREMENTS FOR CONTINUING EDUCATION

(a) Licensed Marriage and Family Therapists and Licensed Marriage and Family Therapy Associates shall submit each year with the license renewal forms evidence of 20 hours of continuing education credits in marriage and family therapy continuing education obtained subsequent to the prior license renewal. Evidence of completion shall consist of a certificate of attendance and completion signed by the continuing education

provider and shall include date(s) of attendance, number of hours, name of attendee, and name of course.

(b) Continuing education units that by title and content deal with marriage and family therapy practice and therapeutic issues, ethics and supervision of marriage and family therapy shall be approved by the Board.

(c) Ongoing supervision by an AAMFT approved supervisor or AAMFT supervisor candidate may be utilized for up to 12 hours of continuing education. Written documentation of the supervisor's status shall be provided to the Board via a copy of the AAMFT supervisor or supervisor candidate verification form.

(d) Three hours of ethics training in the provision of professional mental health services is required (as part of the required 20 hours of continuing education) for each renewal period.

(e) The maximum number of hours of continuing education credits for presenting a continuing education course in marriage and family therapy or teaching a course in marriage and family therapy at a recognized educational institution is five.

(f) Continuing Education credit shall not be accepted for the following:

- (1) Regular work activities, administrative staff meetings, case staffing or reporting;
- (2) Membership in, holding office in, or participation on boards or committees, business meetings of professional organizations, or banquet speeches;
- (3) Independent unstructured or self-structured learning, defined as learning which is undertaken by the licensee without peer or other guidance, review, input, supervision or monitoring;
- (4) Training related to policies and procedures of an agency; or
- (5) Non-therapy content programs such as finance or business management.

(g) If a person submits documentation for continuing education that is not identifiable as dealing with marriage and family therapy practice and therapeutic issues, ethics or the supervision of marriage and family therapy, the Board shall request a written description of the continuing education and how it applies to professional practice in marriage and family therapy. If the Board determines that the training cannot be considered, the individual shall be given 90 days from the date of notification to replace the hours not allowed. Those hours shall be considered replacement hours and shall not be counted during the next renewal period.

(h) If evidence of completion of marriage and family continuing education is not presented to the Board within 90 days from the date of notification, the license expires automatically.

(i) The Board shall waive the continuing education requirements in this Rule for any individual who is currently licensed by and in good standing with the Board if the individual is serving in the armed forces of the United States and if G.S. 105-249.2 grants the individual an extension of time to file a tax return. The waiver shall be in effect for any period that is disregarded under Section 7508 of the Internal Revenue Code in determining the taxpayer's liability for a federal tax.

(j) If the evidence of completion is not postmarked by July 1, the evidence of completion shall not be accepted by the Board, and the license will expire effective July 1.

History Note: Authority G.S. 90-270.51(b); 90-270-58C; 93B-15;
Eff. March 1, 1996;
Amended Eff. July 1, 2011.

21 NCAC 31 .0802 LICENSED MARRIAGE AND FAMILY THERAPY ASSOCIATE

For purposes of G.S. 90-270.54A(c) special circumstances are defined as events beyond the control or fault of the Licensed Marriage and Family Therapy Associate, including illness of self, partner, spouse or child, or death of life partner, spouse or child. Persons who are licensed as Licensed Marriage and Family Therapy Associates must disclose to their clients that they are required to practice under on-going supervision, and the name of their supervisor.

History Note: Authority G.S. 90-270.54A;
Eff. July 1, 2011.

21 NCAC 31 .0901 RECIPROCAL LICENSE

History Note: Authority G.S. 90-270.51(b); 90-270.56;
Eff. March 1, 1996;
Repealed Eff. July 1, 2011.

21 NCAC 31 .1001 FEES

The Board sets the following fees:

- | | | |
|------|---|----------|
| (1) | Each license examination | \$ 50.00 |
| (2) | Each license application as a marriage and family therapist | \$200.00 |
| (3) | Each license application as a marriage and family therapist associate | \$200.00 |
| (4) | Each reciprocal license application | \$200.00 |
| (5) | Each renewal of license | \$100.00 |
| (6) | Each reinstatement of an expired license | \$200.00 |
| (7) | Each application to return to active status | \$200.00 |
| (8) | Each duplicate license | \$ 25.00 |
| (9) | Each annual maintenance of inactive status | \$ 50.00 |
| (10) | Each application to extend associate license | \$ 50.00 |

History Note: Authority G.S. 90-270.57;
Eff. July 1, 2011.

21 NCAC 31 .1002 FUND SUSPENSION

In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and re-new licenses and all fees tendered shall be placed in an escrow account maintained by the Board for this purpose. Once the

Board's authority is restored, the funds shall be moved from the escrow account into the general operating account.

History Note: Authority G.S. 93B-2(d);
Eff. July 1, 2011.

CHAPTER 46 - BOARD OF PHARMACY

21 NCAC 46 .2901 RETURN OF OUTDATED DRUGS

(a) Adequate provisions for return of outdated drugs in both full and partial containers as provided in G.S. 90-85.28(a)(5) means that drugs can be returned up to six months after the labeled expiration date for full credit or replacement. A finding by the Board that a manufacturer does not meet this standard causes that manufacturer's products to be ineligible for use in product selection.

(b) This Rule does not apply to drugs whose only Food and Drug Administration-approved indication is for use as an antidote to biological, chemical, or radiological poisoning.

History Note: Authority G.S. 90-85.6; 90-85.28(a)(5);
Eff. October 1, 1991;
Amended Eff. July 1, 2011.

CHAPTER 52 - BOARD OF PODIATRY EXAMINERS

21 NCAC 52 .0206 LICENSING

History Note: Authority G.S. 90-202.6; 90-202.7;
Eff. February 1, 1976;
Amended Eff. December 1, 1988;
Repealed Eff. July 1, 2011.

CHAPTER 63 – SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

21 NCAC 63 .0102 DEFINITIONS

Whenever used in this Chapter, the definitions set forth in G.S. 90B-3 are herein incorporated by reference. The following definitions apply in this Chapter:

- (1) NCSWCLB - this designation represents the North Carolina Social Work Certification and Licensure Board.
- (2) CSW - this designation represents the certified social worker level of certification.
- (3) CMSW - this designation represents the certified master social worker level of certification.
- (4) CSWM - this designation represents the certified social work manager level of certification.

- (5) LCSW - this designation represents the licensed clinical social worker level of certification.
- (6) P-LCSW - this designation represents the provisionally licensed clinical social worker level of certification.
- (7) Reprimand. Reprimand is a public rebuke and sanction by the Board for practice misconduct. A reprimand typically is given for less severe offenses and may require specific follow-up actions by the social worker.
- (8) Censure. Censure is an act involving severe condemnation and a sanction by the Board for practice misconduct. Censuring is typically for severe offenses and may require specific follow-up actions by the social worker.
- (9) Probation. Probation is a stay of revocation or suspension allowing limited practice within preconditions established by the Board. Violations of these conditions may result in revocation.
- (10) Suspension. Suspension is the withdrawal of privilege to practice for a specific period of time.
- (11) Revocation. Revocation is the withdrawal of privilege to practice as a certified or licensed social worker in the State of North Carolina.
- (12) Clinical Social Work Experience. As it relates to the work experience required for LCSW licensure, two years of clinical social work experience in direct practice means the professional application of master or doctoral social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial function. Clinical social work experience requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of one or more of the following disorders or conditions: mental, emotional, addictive, or behavioral disorders and conditions. In addition, the clinical social work experience may also include clinical case management, information and referral, mediation, client education, clinical supervision and clinical consultation that is directly related to the treatment plan or personal care plan of a client or consumer.
- (13) Diagnosis. In the context of licensed clinical social work practice diagnosis is the process of distinguishing, beyond the general social work assessment, among one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions within a psychosocial framework on the basis of their similar and unique characteristics consistent with American Psychiatric Association or World Health Organization classification systems.
- (14) Clinical Case Management. A comprehensive approach to care integrating a broad array of interventions to include planning, implementation and management of care for clients with one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions. Interventions by the clinical case manager shall involve face-to-face contact with the client on a regular basis, shall be grounded in clinical social work theory, and shall be guided by the client's treatment plan or personal care plan.
- (15) Treatment. Clinical social work intervention, including individual, couples, family, or group psychotherapy, that is empirically grounded and used to help resolve symptoms of one or more of the following: mental, emotional, addictive, behavioral, or developmental disorders and conditions.
- (16) Surrender. Surrender is the voluntary relinquishment of a certification or license by its holder. The surrender of a certification or license shall only be accepted by Consent Order with the Board.

History Note: Authority G.S. 90B-3; 90B-6; Eff. August 1, 1987; Temporary Amendment Eff. October 1, 1999; Amended Eff. July 1, 2011; January 1, 2009; July 1, 2000.

21 NCAC 63 .0106 ANNUAL REPORTS

- (a) Not later than October 31 of each year, the Board shall file the reports required by G.S. 93B-2.
- (b) In the event the reports required by G.S. 93B-2 are not timely filed, and the Board's authority to expend any funds is suspended, the Board shall continue to issue and renew licenses and deposit any fees or funds received during the period of suspension into an escrow account established by the Board solely for this purpose.
- (c) The Board shall not expend the fees or funds until the Board has filed the required reports in accordance with G.S. 93B-2.

History Note: Authority G.S. 93B-2; Eff. July 1, 2011.

21 NCAC 63 .0406 MILITARY WAIVER OR EXTENSION OF TIME FOR RENEWAL OF CERTIFICATION OR LICENSURE

- (a) If a social worker is currently certified or licensed in good standing by this Board and is serving in the armed forces of the United States and who has been granted an extension of time to file a tax return under G.S. 105-249.2, the Board shall grant a waiver or the same extension of time to fulfill the requirements for renewal of his or her certification or licensure.
- (b) Prior to the expiration of his or her license or certificate, the licensee or certificate holder shall submit a written request for

extension to the Board to include a copy of the social worker's military orders and the extension approval granted by the Internal Revenue Service or the State Department of Revenue.

(c) During the extended time period, the existing license or certification shall not expire until a decision on the renewal application is made by the Board. If the application is denied or the terms of the license or certification are limited, the existing license or certification shall not expire until the last day for applying for judicial review of the Board order.

(d) Continuing education credits approved during the extended time period shall not be utilized for future renewal periods.

History Note: Authority G.S. 90B-6; 90B-6.2; 93B-15; Eff. July 1, 2011.

21 NCAC 63 .0609 REPORTING OF DISCIPLINARY ACTIONS

The Board shall report all disciplinary actions specified in G.S. 90B-11 through the Public Protection Database (PPD), the National Practitioner Data Bank – Healthcare Integrity and Protection Data Bank (NPDB-HIPDB), and may report them to any requesting public or private entity. Disciplinary actions do not include complaints.

- (1) In compliance with NPDB-HIPDB requirements, the N.C. Social Work Certification and Licensure Board shall report negative action or finding that is publicly available. Consistent with 45 C.F.R. 60.3, the following negative actions shall be reported:

- (a) Injunctions for unlicensed practice;
 - (b) Issuance of a cease and desist order;
 - (c) Revocation;
 - (d) Suspension;
 - (e) Censure;
 - (f) Reprimand;
 - (g) Probation;
 - (h) Withdrawal or denial of initial applications or reapplications proximate to an ethics matter;
 - (i) Surrender of certification or license during an investigation;
 - (j) Practice limitations connected to the delivery of health care services as defined by 45 C.F.R. 60.3; and
 - (k) Limitations on the right of a licensee or certificate holder to supervise.
- (2) For purposes of this Rule, the following matters shall not constitute negative actions:
 - (a) monitoring independent of restrictions or discipline; and
 - (b) letters of concern.

History note: Authority G.S. 90B-6(h); 90B-11; Temporary Adoption Eff. October 1, 1999; Eff. July 1, 2000; Amended Eff. July 1, 2011.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission on Thursday August 18, 2011 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 919-431-3000. 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

Addison Bell
Margaret Currin
Pete Osborne
Bob Rippy
Faylene Whitaker

Appointed by House

Ralph A. Walker
Curtis Venable
George Lucier
Garth K. Dunklin
Stephanie Simpson

COMMISSION COUNSEL

Joe Deluca (919)431-3081
Bobby Bryan (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

August 18, 2011 September 15, 2011
October 20, 2011 November 17, 2011

AGENDA

RULES REVIEW COMMISSION Thursday, August 18, 2011 10:00 A.M.

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Social Services Commission – 10A NCAC 70G .0403 (Bryan)
 - B. Social Services Commission – 10A NCAC 70H .0114 (Bryan)
 - C. Social Services Commission – 10A NCAC 70J .0106 (Bryan)
 - D. Board of Massage and Bodywork Therapy – 21 NCAC 30 .0624 (DeLuca)
 - E. Marriage and Family Therapy Licensure Board – 21 NCAC 31 .0201, .0501, .0801 (Bryan)
 - F. Board of Examiners for Engineers and Surveyors – 21 NCAC 56 .0701, .1602 (DeLuca)
 - G. Board of Examiners for Speech and Language Pathologists and Audiologists – 21 NCAC 64 .0307 (DeLuca)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between June 21, 2011 and July 20, 2011
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days of the RRC Meeting
- VI. Commission Business
 - Next meeting: September 15, 2011

Commission Review Log of Permanent Rule Filings June 21, 2011 through July 20, 2011

PUBLIC LIBRARIAN CERTIFICATION COMMISSION

The rules in Subchapter 2F are from the Public Librarian Certification Commission.

<u>Purpose of the Commission</u>	07	NCAC	02F	.0101
Repeal/*				
<u>Full Certification</u>	07	NCAC	02F	.0102
Repeal/*				
<u>Application Procedure for Public Librarian Certification</u>	07	NCAC	02F	.0103
Repeal/*				

The rules in Subchapter 2J are from the Public Librarian Certification Commission.

<u>Purpose of the Commission</u>	07	NCAC	02J	.0101
Adopt/*				
<u>Full Certification</u>	07	NCAC	02J	.0102
Adopt/*				
<u>Application Procedure for Public Librarian Certification</u>	07	NCAC	02J	.0103
Adopt/*				

HOME INSPECTOR LICENSURE BOARD

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); Manufactured Housing Board continuing education (.1400); and alternate designs and construction appeals (.1500).

<u>Insurance Requirements</u>	11	NCAC	08	.1006
Amend/*				
<u>Definitions</u>	11	NCAC	08	.1020
Adopt/*				
<u>Program Structuring and Admission Requirements</u>	11	NCAC	08	.1021
Adopt/*				
<u>Program Sponsors</u>	11	NCAC	08	.1022
Adopt/*				
<u>Application for Program Sponsor</u>	11	NCAC	08	.1023
Adopt/*				
<u>Course Requirements</u>	11	NCAC	08	.1024
Adopt/*				
<u>Course Completion Standards</u>	11	NCAC	08	.1025
Adopt/*				
<u>Course Scheduling</u>	11	NCAC	08	.1026
Adopt/*				
<u>Textbooks</u>	11	NCAC	08	.1027
Adopt/*				
<u>Course Completion</u>	11	NCAC	08	.1028
Adopt/*				
<u>Purpose and Scope</u>	11	NCAC	08	.1103
Amend/*				

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).

Accreditation Standards
Amend/*

12 NCAC 07D .1303

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2B pertain to surface water standards and monitoring including procedures for assignment of water quality standards (.0100); the standards used to classify the waters of the state (.0200); stream classifications (.0300); effluent limitations (.0400); monitoring and reporting requirements (.0500); and water quality management plans (.0600).

Jordan Water Supply Nutrient Strategy: Purpose and Scope
Amend/*

15A NCAC 02B .0262

Jordan Water Supply Nutrient Strategy: Definitions
Amend/*

15A NCAC 02B .0263

Jordan Water Supply Nutrient Strategy: Protection of Exis...
Amend/*

15A NCAC 02B .0267

Jordan Water Supply Nutrient Strategy: Mitigation of Exis...
Amend/*

15A NCAC 02B .0268

Jordan Water Supply Nutrient Strategy: Stormwater Require...
Amend/*

15A NCAC 02B .0271

Cape Fear River Basin
Amend/*

15A NCAC 02B .0311

Roanoke River Basin
Amend/*

15A NCAC 02B .0313

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).

Sulfur Oxides
Amend/*

15A NCAC 02D .0402

Nitrogen Dioxide
Amend/*

15A NCAC 02D .0407

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

Tyrell County
Amend/*

15A NCAC 10F .0365

The rules in Subchapter 10G concern distribution and sale of hunting: fishing: and trapping license including license agents (.0100); boat registration agents (.0200); fur tag agents (.0300); wildlife service agents (.0400); and licensee

requirements (.0500).

Appointment of Wildlife Service Agents
Amend/*

15A NCAC 10G .0402

Wildlife Service Agent Agreement
Amend/*

15A NCAC 10G .0403

Wildlife Service Agent Terms and Conditions
Amend/*

15A NCAC 10G .0405

ENVIRONMENT AND NATURAL RESOURCES, DEPARTMENT OF

The rules in Chapter 28 are from the NC Aquariums and concern use of North Carolina Aquariums (.0100); scheduling activities for group use (.0200); unauthorized use of facilities, fees (.0300); firearms, fires, and smoking (.0400); conduct, alcoholic beverages, pets and proper dress (.0500); commercial activities, solicitations, etc. (.0600); and preservation of aquarium property (.0700).

Fee Schedule
Amend/*

15A NCAC 28 .0302

COSMETIC ART EXAMINERS, BOARD OF

The rules in Subchapter 14C concern contested cases including general rules (.0100); request for a hearing (.0200); who shall hear contested cases (.0600); intervention (.0800); and hearing officers (.0900).

Prerequisites
Repeal/*

21 NCAC 14C .0202

The rules in Subchapter 14P are civil penalty rules.

Renewals, Expired Licenses, Licenses Required
Amend/*

21 NCAC 14P .0105

Revocation of Licenses and Other Disciplinary Measures
Amend/*

21 NCAC 14P .0108

REFRIGERATION EXAMINERS, BOARD OF

The rules in Chapter 60 are from the Board of Refrigeration Examiners and concern organization and definitions (.0100); examinations (.0200); licenses and fees (.0300); disciplinary action (.1100); and continuing education.

Office of the Board
Amend/*

21 NCAC 60 .0102

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>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon	11 ABC 2294	07/05/11	
<u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u>			
Dianne Moody Costello v. Victim and Justice Services	11 CPS 05780	06/20/11	
<u>DEPARTMENT OF HEALTH AND HUMAN SERVICES</u>			
Scott M. Jensen, DMD v. DHHS, Division of Medical Assistance	09 DHR 3252	06/21/11	
Patricia Anne Edwards v. DHHS, Division of Child Development	10 DHR 0292	06/06/11	
Marchell Gunter, The Home of Marchell F Gunter v. DHHS	10 DHR 0557	06/03/11	
Theracare Home Health and Staffing, LLC v. DHHS, Division of Medical Assistance Program Integrity	10 DHR 1455	06/01/11	
Alternative Life Programs, Inc. Marchell F Gunter v. DHHS	10 DHR 3583	06/03/11	
Carolyn Rucker v. DHHS, Division of Medical Assistance	10 DHR 3717	05/19/11	
Angela Mackey v. DHHS, Division of Health Service Regulation	10 DHR 5499	06/01/11	
Cynthia Dawn Sloope v. DHHS	10 DHR 5500	06/07/11	
Alternative Life Programs, Inc. Marchell F Gunter	10 DHR 6204	06/03/11	
Cherie L Russell v. DHHS, Division of Health Services Regulation	10 DHR 6240	05/17/11	
Grover L. Hunt v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	10 DHR 6710	05/25/11	
Raymond Taylor Mabe Jr. v. OAH, Debbie Odette/Glana Surles	10 DHR 8094	05/26/11	
Shanta M. Collins v. DHHS, Division of Health Service Regulation	10 DHR 8444	06/22/11	
Yolanda M. Brown v. Health Care Registry Personnel	10 DHR 09708	07/14/11	
James L. Graham v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	11 DHR 0303	06/28/11	
Angela Clark v. DHHS	11 DHR 1565	06/03/11	
April G. Cooper v. Edgecombe County, Dept. of Social Services (DHHS) Food Stamps	11 DHR 2146	06/15/11	
Patricia Anne Edwards v. DHHS, Division of Child Development	11 DHR 2149	06/06/11	
Demetrius L. Brooks v. DHHS, Division of Health Service Regulation	11 DHR 2441	06/30/11	
Cyonna Hallums v. DHHS, Healthcare Registry	11 DHR 2858	06/30/11	
Angela L. Jordan v. DHHS, Division of Health Service Regulation	11 DHR 2920	06/30/11	
Creative Hands Occupational Therapy v. Susan Olmschenk v. Office of Administrative Hearings	11 DHR 2924	06/10/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2990	05/27/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2993	05/27/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2994	05/27/11	
Singleton Developmental Center Inc, dba In The Beginning Child Care #3 v. Division of Child Development, DHHS	11 DHR 2995	05/27/11	

CONTESTED CASE DECISIONS

Nellie v. Mitchell, Little Lamb's Daycare v. DHHS, Division of Child Development	11 DHR 3391	06/13/11
Yolanda McKinnon v. DHHS, Division of Child Development	11 DHR 4117	06/09/11
Angelicia Linney v. Alexander County DSS	11 DHR 4965	06/21/11
Robin Whistsett-Crite/RJ Whistsett Residential Services v. DHHS	11 DHR 5146	07/12/11
Joyce Muhammad v. DHHS	11 DHR 00198	07/11/11
Support Staff v. DHHS, Division of Medical Assistance	11 DHR 01449	07/11/11
Maithily H Patel v. Nutrition Service Branch, DHHS	11 DHR 02144	06/30/11
Kishja Marlin v. DHHS	11 DHR 03313	07/07/11
Wonne Mills v. Department of Social Services/Fraud Department, Office of Administrative Hearings	11 DHR 03389	06/27/11
Beau A. Davis v. DHHS	11 DHR 03691	06/20/11
Bertha's Place Inc, Wayne Louis Garris v. Mecklenburg County LME	11 DHR 04186	06/17/11
Nicole McGee v. Health Care Personnel Registry	11 DHR 04475	06/17/11
Dondra R. Sugg v. Carteret County Social Services Food Stamp	11 DHR 04958	07/15/11

DEPARTMENT OF CORRECTION

John Channon Engle v. Department of Correction	11 DOC 07333	07/11/11
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DEPARTMENT OF JUSTICE

Aaron R Taylor v. Company Police Program	10 DOJ 5356	05/27/11
Dustin Clark v. Department of Justice, Company Police Program	10 DOJ 5877	05/24/11
Travis Mark Caskey v. Sheriffs' Education and Training Standards Commission	10 DOJ 6966	06/02/11
Robert Scott MacFayden v. Sheriffs' Education and Training Standards Commission	10 DOJ 7773	06/01/11
Darius Antuan McLean v. Sheriffs' Education and Training Standards Commission	11 DOJ 04824	07/11/11

DEPARTMENT OF LABOR

Hilliard Glass Company, Inc v. Department of Labor, Wage and Hour Bureau	11 DOL 07329	07/15/11
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DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Farmington Square LLC, Jawahar Muniyandi v. City of Raleigh Stormwater Management	10 EHR 01613	07/14/11
Jeff Snavelly/Triad Siteworks Inc v. NCDENR	11 EHR 2475	06/06/11

OFFICE OF STATE PERSONNEL

Sandra J. Barile v. Dare County Department of Social Services	10 OSP 0469	07/11/11
Robert Lindsey v. Department of Correction	10 OSP 5362	07/05/11
Christopher Sanders v. DHHS	10 OSP 5943	06/23/11
Melissa A McLean v. Ms. Gerri Robinson, MSW Social Services Director, Durham County, Dept. of Social Services	11 OSP 1379	06/03/11
Vickie D. Randleman v. NCSU	11 OSP 3838	06/09/11
Mary K. Severt v. Iredell Dept. of Social Services	11 OSP 4757	06/27/11
Henry Dennis Tysor III v. Dept. of Corrections, Fountain Corrections	11 OSP 02643	07/12/11
Jessie M Chambers v. Brown Creek Correctional Institution	11 OSP 03747	06/23/11

OFFICE OF SECRETARY OF STATE

Husayn Ali Bey v. Department of Secretary of State	10 SOS 09195	06/28/11
Christopher R. Eakin v. Department of Secretary of State	11 SOS 0139	06/08/11