

# ***NORTH CAROLINA REGISTER***

**VOLUME 26 • ISSUE 15 • Pages 1060 - 1174**

**February 1, 2012**

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## **Contact List for Rulemaking Questions or Concerns**

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

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

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

contact: Molly Masich, Codifier of Rules molly.masich@oah.nc.gov (919) 431-3071  
Dana Vojtko, Publications Coordinator dana.vojtko@oah.nc.gov (919) 431-3075  
Julie Edwards, Editorial Assistant julie.edwards@oah.nc.gov (919) 431-3073  
Tammara Chalmers, Editorial Assistant tammara.chalmers@oah.nc.gov (919) 431-3083

### **Rule Review and Legal Issues**

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

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

### **Fiscal Notes & Economic Analysis 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  
Jeff Hudson, Staff Attorney Jeffrey.hudson@ncleg.net

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2012 – December 2012

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 <sup>th</sup> day from publication in the Register
26:13	01/03/12	12/08/11	01/18/12	03/05/12	03/20/12	05/01/12	05/16/12	09/29/12
26:14	01/17/12	12/21/11	02/01/12	03/19/12	03/20/12	05/01/12	05/16/12	10/13/12
26:15	02/01/12	01/10/12	02/16/12	04/02/12	04/20/12	06/01/12	01/30/13	10/28/12
26:16	02/15/12	01/25/12	03/01/12	04/16/12	04/20/12	06/01/12	01/30/13	11/11/12
26:17	03/01/12	02/09/12	03/16/12	04/30/12	05/21/12	07/01/12	01/30/13	11/26/12
26:18	03/15/12	02/23/12	03/30/12	05/14/12	05/21/12	07/01/12	01/30/13	12/10/12
26:19	04/02/12	03/12/12	04/17/12	06/01/12	06/20/12	08/01/12	01/30/13	12/28/12
26:20	04/16/12	03/23/12	05/01/12	06/15/12	06/20/12	08/01/12	01/30/13	01/11/13
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27:07	10/01/12	09/10/12	10/16/12	11/30/12	12/20/12	02/01/13	05/2014	06/28/13
27:08	10/15/12	09/24/12	10/30/12	12/14/12	12/20/12	02/01/13	05/2014	07/12/13
27:09	11/01/12	10/11/12	11/16/12	12/31/12	01/22/13	03/01/13	05/2014	07/29/13
27:10	11/15/12	10/24/12	11/30/12	01/14/13	01/22/13	03/01/13	05/2014	08/12/13
27:11	12/03/12	11/07/12	12/18/12	02/01/13	02/20/13	04/01/13	05/2014	08/30/13
27:12	12/17/12	11/26/12	01/01/13	02/15/13	02/20/13	04/01/13	05/2014	09/13/13

## **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. 113**

**FURTHER EXTEND UNEMPLOYMENT BENEFITS TO PROTECT THE SAFETY, HEALTH, AND WELFARE OF NORTH CAROLINA'S LONG-TERM UNEMPLOYED**

**WHEREAS**, the United States Congress previously passed the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) (hereinafter "Tax Relief Act"), to provide a temporary mechanism for states to amend the criteria used to determine whether the State may pay extended benefits to its unemployed citizens; and

**WHEREAS**, to ensure that 47,000 unemployed North Carolinians had access to these extended benefits, I issued Executive Order No. 93 on June 3, 2011, which authorized the former Employment Security Commission to provide extended benefits under the temporary federal mechanism and to take actions necessary to comply with the federal requirements for paying extended benefits; and

**WHEREAS**, the North Carolina General Assembly subsequently passed legislation in Session Law 2011-145, section 6.16, which codified the provisions of Executive Order No. 93, with the stated intent of the legislature to allow extended benefits to be paid under the Tax Relief Act so long as it did not hinder the State's ability to reduce its debt owed to the federal government for unemployment benefits; and

**WHEREAS**, Executive Order No. 93 expired upon passage of Session Law 2011-145, and Section 6.16 of Session Law 2011-145 expired on January 1, 2012; and

**WHEREAS**, on December 23, 2011, Congress passed an extension of the Tax Relief Act to grant a longer time period to use the aforementioned temporary mechanism for paying extended benefits; and

**WHEREAS**, to be able to continue to provide such extended benefits for our State's long-term unemployed, North Carolina needs to modify the criteria to meet the applicable federal requirements under which extended benefits are payable; and

**WHEREAS**, it is important for the State of North Carolina to have access to all tools that will help the State and its citizens during these difficult economic times; and

**WHEREAS**, providing such extended benefits will not create a cost to the unemployment

fund of the State of North Carolina; and

**WHEREAS**, it is vital to the welfare and economic security of North Carolinians that they be eligible to receive extended benefits, and it is in the best interests of the State of North Carolina that these benefits be paid in a timely manner; and

**WHEREAS**, it is in the best interests of North Carolina that unemployed citizens of our State be permitted to benefit from all existing unemployment programs; and

**WHEREAS**, Article III, Section 1 of the State Constitution invests the executive power of the State in the Governor; and

**WHEREAS**, North Carolina General Statute § 143B-4 provides that the Governor, in accordance with Article III of the Constitution of North Carolina, is the Chief Executive Officer of the State and is responsible for formulating and administering the policies of the executive branch of the State government; and

**WHEREAS**, the Governor is the sole official liaison between the government of this State and the government of the United States; and

**WHEREAS**, the Governor is the sole signatory for the State on agreements and contracts with the United States Department of Labor; and

**WHEREAS**, the North Carolina Department of Commerce Division of Employment Security (hereinafter, the "Division of Employment Security") is an agency of the executive branch of North Carolina state government and subject to the policies formulated and administered by the Governor, and is authorized by N.C. Gen. Stat. Chapter 96 to administer the extended benefits program in the State of North Carolina; and

**WHEREAS**, based upon the aforementioned provisions of the North Carolina Constitution and the North Carolina General Statutes, I hereby choose to exercise my authority because the extended benefits addressed by this Executive Order are federal funds that are being made available to the State of North Carolina by the United States Department of Labor without the need for any appropriation of state funds by the North Carolina General Assembly.

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


- I. The Division of Employment Security shall use the following criteria to provide extended benefits to unemployed North Carolina citizens, pursuant to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312), as amended, for weeks of unemployment beginning after December 17, 2010, and ending on or before the earlier of the latest date permitted under federal law or the end of the fourth week prior to the last week for which federal sharing is provided as authorized by Section 2005(a) of Public Law 111-5 without regard to Section 2005(c) of Public Law 111-5:
  - a. The state has an "on indicator" provided that:
    - 1) The average rate of insured unemployment, not seasonally adjusted, equaled

or exceeded one hundred twenty percent (120%) of the average of such rates for the corresponding 13-week period ending in each of the preceding three calendar years and equaled or exceeded five percent (5%); or

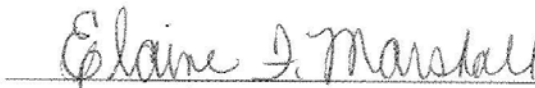
- 2) The average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent (6.5%) and equals or exceeds one hundred ten percent (110%) of such average rate for any (or all) of the corresponding three-month periods ending in the three preceding calendar years.
- b. The state is in a high unemployment period provided that the average rate of total unemployment, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent (8%) and equals or exceeds one hundred ten percent (110%) of such average rate for any (or all) of the corresponding three-month periods ending in the three preceding calendar years.
2. The Division of Employment Security is hereby granted the authority to take any necessary actions to comply with the federal requirements for paying extended benefits.
3. Notwithstanding any other provision of this Executive Order, the Division of Employment Security shall not use the criteria outlined above unless it ensures that any payment of extended benefits provided under this Executive Order does not hinder the State's ability to reduce the debt it owes to the federal government for unemployment benefits.
4. This Executive Order is effective immediately and shall remain in effect until rescinded or until legislation has been enacted and signed into law that would achieve the results set out herein.

**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 eleventh day of January in the year of our Lord two thousand and twelve, 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

**Notice of Change of Location of NC Real Estate Commission's Public Hearing**

*Notice is hereby given that the location of the public hearing to be held in connection with the NC Real Estate Commission's proposed amendment of the rule cited as NCAC 58A .0114, as published in volume 26, issue 13, page 948 of the North Carolina Register, has been moved. The new location of the public hearing is as follows:*

**Public Hearing:**

**Date:** *March 7, 2012*

**Time:** *9:00 a.m.*

**Location:** *North Raleigh Hilton, Salon E, 3415 Wake Forest Road, Raleigh, NC 27609*





U.S. Department of Justice  
Civil Rights Division

TCH:RSB:RPL:LJM:tst:maf  
DJ 166-012-3  
2011-3092

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

December 23, 2011

Mr. Gary O. Bartlett  
Executive Director  
State Board of Elections  
P.O. Box 27255  
Raleigh, North Carolina 27603

Dear Mr. Bartlett:

This refers to the establishment of procedures to verify the citizenship status of voter registration applicants who currently hold a Department of Motor Vehicles-issued legal presence driver's license or identification card, which is issued only to those individuals who submit documentation indicating that they are not a United States citizen at the time of their application; the voter registration procedure in the DMV database that precludes such individuals from registering to vote; the procedures for conducting a one-time verification of the citizenship status of those individuals who hold legal presence identification; and the one-time removal of registered voters, who hold a legal presence driver's license or identification card and have not responded to the state's written inquiry regarding their current citizenship status; for the State of 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 response to our October 11, 2011, request for additional information on October 24, 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. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Christian Herren, Jr.", written over a horizontal line.

T. Christian Herren, Jr.  
Chief, Voting Section

Received

DEC 29 2011

Campaign Finance



U.S. Department of Justice

Civil Rights Division

TCH:RSB:JR:VW:par:maf  
DJ 166-012-3  
2011-4332

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

December 13, 2011

Adam Mitchell, Esq.  
Tharrington Smith  
P.O. Box 1151  
Raleigh, North Carolina 27602

Dear Mr. Mitchell:

This refers to the 2011 redistricting plan for the Town of Tarboro in Edgecombe 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 October 19, 2011; additional information was received through October 28, 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. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

A handwritten signature in dark ink, appearing to read "T. Christian Herren, Jr.", is written over a printed name and title. The signature is fluid and cursive.

T. Christian Herren, Jr.  
Chief, Voting Section



U.S. Department of Justice

Civil Rights Division

TCH:RSB:LB:ZB:par:maf  
DJ 166-012-3  
2011-4376  
2011-4377

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

Filed  
2011 DEC 23 PM 4:18  
Office of  
Administrative Hearings

December 13, 2011

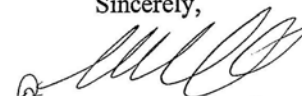
Adam Mitchell, Esq.  
Tharrington Smith  
P.O. Box 1151  
Raleigh, North Carolina 27602

Dear Mr. Mitchell:

This refers to the 2011 redistricting plans for the Granville County School District and Granville 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 submissions on October 20, 2011; additional information was received through November 16, 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. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

  
T. Christian Herren, Jr.  
Chief, Voting Section



U.S. Department of Justice  
Civil Rights Division

TCH:RSB:JER:ZB:tst  
DJ 166-012-3  
2011-3843

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

November 17, 2011

Don Wright, Esq.  
General Counsel, Board of Elections  
P.O. Box 27255  
Raleigh, North Carolina 27611

Dear Mr. Wright:

This refers to Session Law 2011-409 (S.B. 514) (2011), which schedules the May 8, 2012, special constitutional amendment election, for the State of 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 September 22, 2011; additional information was received on November 15, 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. Procedures for the Administration of Section 5 of the Voting Rights Act of 1965, 28 C.F.R. 51.41.

Sincerely,

for *T. Christian Herren, Jr.*

T. Christian Herren, Jr.  
Chief, Voting Section

RECEIVED

NOV 21 2011

NO BOARD OF ELECTIONS

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

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

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

Center, Raleigh, NC 27699-2201; phone (919) 890-7060; fax (919) 662-4543; email [Dedra.Alston@dhhs.nc.gov](mailto:Dedra.Alston@dhhs.nc.gov)

**Notice** is hereby given in accordance with G.S. 150B-21.2 that the NC Child Care Commission intends to adopt the rule cited as 10A NCAC 09 .1706; amend the rules cited as 10A NCAC 09 .0102, .0714, .0901-.0902, .1702, .1718; and repeal the rules cited as 10A NCAC 09 .1501-.1504, and .1506.

**Comment period ends:** April 2, 2012

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://ncchildcare.dhhs.state.nc.us/general/whatsnew.asp>

**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.

**Proposed Effective Date:** July 1, 2012

**Public Hearing:**

**Date:** February 28, 2012

**Time:** 1:30 p.m.

**Location:** Division of Child Development and Early Education, 319 Chapanoke Road, Suite 120, Room 300, Raleigh, NC

**Reason for Proposed Action:**

**10A NCAC 09 .0714** – Amendments to this rule will establish guidelines for staff to use when supervising children indoors or outdoors while they are in child care. Staff must know where children are at all times and be able to hear and see them. Also a provision from the Americans with Disabilities Act (ADA) will be added for individuals with a disability who are seeking employment in child care.

**10A NCAC 09 .0901, .0902, .1702, .1706, .1718** – Proposed amendments to these rules are in accordance with the S.L. 2010-117 to improve the nutrition standards in child care facilities by limiting certain foods (i.e. juice) or prohibits providing some at all (i.e. soda, flavored milk). Meeting these requirements will continue to allow for providers to participate in the Child and Adult Care Food Program and be reimbursed as they have been historically.

**10A NCAC 09 .0102, .1501, .1502, .1503, .1504, .1506** – As part of the Governor's RIMP report, rules regarding temporary care were identified as being unnecessary. Rules .1501, .1502, .1503, .1504 and .1506 are proposed for repeal. Also the definition of temporary care in Rule .0102(32) will be deleted.

**Procedure by which a person can object to the agency on a proposed rule:** Objections may be submitted in writing to Dedra Alston, Division of Child Development and Early Education, 2201 Mail Service Center, Raleigh, NC 27699-2201; or by email to [Dedra.Alston@dhhs.nc.gov](mailto:Dedra.Alston@dhhs.nc.gov) by April 2, 2012.

**Comments may be submitted to:** Dedra Alston, Division of Child Development and Early Education, 2201 Mail Service

**Fiscal impact (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

**CHAPTER 09 - CHILD CARE RULES**

**SECTION .0100 - DEFINITIONS**

Note: Text shown in *Italics* has been approved by the RRC and is pending Legislative review.

**10A NCAC 09 .0102 DEFINITIONS**

The terms and phrases used in this Chapter are defined as follows except when the ~~content~~ *context* of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Agency" as used in Section .2200 of this Chapter, means Division of Child ~~Development,~~ *Development and Early Education*, Department of Health and Human Services located at 319 Chapanoke Road, Suite 120, Raleigh, North Carolina 27603.

- (2) "Appellant" means the person or persons who request a contested case hearing.
- (3) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project. Other training shall be approved as equivalent if the Division determines that the content of the training offered is substantially equivalent to the BSAC training.
- (4) "Child Care Program" means a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2(a)(2)a. and used in Section .2700 of this Chapter, includes the following employees who have contact with the children in a child care program: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel, and drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (8) "Division" means the Division of Child Development and Early Education within the Department of Health and Human Services.
- (9) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (10) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (11) "Experience working with school-aged children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.
- ~~(11)~~(12) "Family Child Care Environment Rating Scale - Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- ~~(12)~~(13) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.
- ~~(13)~~(14) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Chapter, using space which is identifiable for each group.
- ~~(14)~~(15) "Health care professional" means:
  - (a) a physician licensed in North Carolina;
  - (b) a nurse practitioner approved to practice in North Carolina;
  - (c) a licensed physician assistant.
- ~~(15)~~(16) "Household member" means a person who resides in a family home as evidenced by factors ~~including~~, including maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.
- ~~(16)~~(17) "If weather conditions permit" means:
  - (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of

charge from  
http://www.idph.state.ia.us/hcci/com  
mon/pdf/weatherwatch.pdf, and is  
incorporated by reference and  
includes subsequent editions and  
amendments;

- (b) following the air quality standards as set out in 15A NCAC 18A .2832(d), healthy air quality as forecast by the Department of Environment and Natural Resources' Air Quality Forecasts and Information web page. The Air Quality Color Guide can be found on the Division's web site at http://xapps.enr.state.nc.us/aq/ForecastCenter or call 1-888-RU4NCAIR (1-888-784-6224); and
- (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.

~~(17)~~(18) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

~~(18)~~(19) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development and Early Education for caregivers of children ages 12 months and younger.

~~(19)~~(20) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.

~~(20)~~(21) "North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals

certifies individuals and assigns a certification level on two scales: the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010 or the School Age Professional Scale (SA Scale) in effect as of May 19, 2010. Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals working with or on behalf of children ages 5 to 12 who are served in school age care settings.

~~(20)~~(21)(22) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of required early childhood coursework taken at any NC Community College, and standards found in the North Carolina Early Childhood Instructor Manual (published by the NC Community College System Office). These standards are incorporated by reference and include subsequent amendments. Other post secondary curriculum coursework shall be approved as equivalent if the Division determines that the content of the other post secondary curriculum coursework offered is substantially equivalent to the NC Early Childhood Credential Coursework. A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours.

~~(21)~~(22)(23) "Owner" means any person with a five percent or greater equity interest in a child care facility, ~~however,~~ however stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 and G.S. 110-91(8) unless they are ~~involved in day-to-day operations of the child care facility.~~ a child care provider.

~~(22)~~(23)(24) "Parent" means a child's parent, legal guardian, or full-time custodian.

~~(23)~~(24)(25) "Part-time care" means a child care arrangement where children attend on a regular schedule but less than a full-time basis.

~~(24)~~(25)(26) "Passageway" means a hall or corridor.

~~(25)~~(26)(27) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.

~~(26)~~(27)(28) "Preschooler" or "preschool-age child" means any child who does not fit the definition of school-age child in this Rule.

~~(27)~~(28)(29) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the

instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

~~(28)~~~~(29)~~~~(30)~~ "School-age child" means any child who is attending or who has attended, a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.

~~(29)~~~~(30)~~~~(31)~~ "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).

~~(30)~~~~(31)~~~~(32)~~ "Section" means Division of Child Development. Development and Early Education.

~~(31)~~~~(32)~~~~(33)~~ "Substitute" means any person who ~~temporarily~~ assumes the duties of a staff person for a time period not to exceed two consecutive months.

~~(32)~~~~(33)~~~~(34)~~ "Temporary care" means any child care arrangement which provides either drop in care or care on a seasonal or other part time basis and is required to be regulated pursuant to G.S. 110-86.

~~(33)~~~~(34)~~~~(35)~~~~(34)~~ "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.

~~(34)~~~~(35)~~~~(36)~~~~(35)~~ "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.

Authority G.S. 110-85; 110-88; 143B-168.3.

## SECTION .0700 - HEALTH AND OTHER STANDARDS FOR CENTER STAFF

### 10A NCAC 09 .0714 OTHER STAFFING REQUIREMENTS

(a) Each child care center shall have an administrator on site on a regular basis. The administrator shall be responsible for monitoring the program and overseeing administrative duties of the center. This requirement may be met by having one or more persons on site who meet the requirements for an administrator according to the licensed capacity of the center. The following hourly requirements are based on an administrator's normal

working schedule and may include times when the administrator may be off site due to administrative duties, illness, or vacation.

- (1) Each center with a licensed capacity of less than 30 children shall have an administrator on site for at least 20 hours per week.
- (2) Each center with a licensed capacity of 30 to 79 children shall have an administrator on site for at least 25 hours per week.
- (3) Each center with a licensed capacity of 80 to 199 children shall have an administrator on site for at least 30 hours per week.
- (4) Each center with a licensed capacity of 200 or more children shall have an administrator on site for at least 40 hours per week.

(b) At least one person who meets the requirements for an administrator or lead teacher as set forth in this Section shall be on site during the center's operating hours except that a person who is at least 18 years old with at least a high school diploma or its equivalent and who has a minimum of one year's experience working with children in a child care center may be on duty at the beginning or end of the operating day provided that:

- (1) No more than 10 children are present.
- (2) The staff person has worked in that center for at least three months.
- (3) The staff person knows and can apply the center's operating policies and emergency procedures.

(c) At least one person who meets the requirements for a lead teacher shall be responsible for each group of children as defined in Rule .0102 of this ~~Subchapter~~ Chapter except as provided in Paragraph (b) of this Rule. This requirement may be met by having one or more persons who meet the requirements for a lead teacher responsible for the same group of children. Each lead teacher shall be responsible for only one group of children at a time. Each group of children shall have a lead teacher in attendance for at least two-thirds of the total daily hours of operation, based on a normal working schedule and may include times when the lead teacher may not be in attendance due to circumstances such as illness or vacation.

(d) A teacher is a person who is responsible to the lead teacher and assists with planning and implementing the daily program.

(e) No aide or aides shall have responsibility for a group of children except as provided in Paragraph (b) of this Rule.

(f) Children shall be adequately supervised at all times. Adequate supervision shall mean ~~that that: staff interact with the children while moving about the indoor or outdoor area, and are able to hear and see the children at all times, except when emergencies necessitate that direct supervision is impossible for brief periods of time.~~

- (1) Staff must be positioned in the indoor and outdoor environment to maximize their ability to hear or see the children at all times and render immediate assistance;
- (2) Staff must interact with the children while moving about the indoor or outdoor area;
- (3) Staff must know where each child is located and be aware of children's activities at all times;



- (4) Staff must provide supervision appropriate to the individual age, needs and capabilities of each child; and
- (5) All of the conditions in this Paragraph shall apply except when emergencies necessitate that direct supervision is impossible for brief periods of time. Documentation of emergencies shall be maintained and available for review by Division representatives upon request.

(g) Nothing contained in this Rule shall be construed to preclude a "qualified person with a disability," as defined by G.S. 168A-3(9), or a "qualified individual with a disability," as defined by the Americans With Disabilities Act at 42 U.S.C. 12111(8), from working in a licensed child care facility.

(g)(h) For groups of children aged two years or older, the staff/child ratio during nap time is considered in compliance if at least one person is either in each room or is visually supervising all the children and if the total number of required staff are on the premises and within calling distance of the rooms occupied by children.

(h)(i) When a child is sleeping, bedding or other objects shall not be placed in a manner that covers the child's face.

*Authority G.S. 110-85(1); 110-91(7),(8); 143B-168.3.*

## **SECTION .0900 - NUTRITION STANDARDS**

### **10A NCAC 09 .0901 GENERAL NUTRITION REQUIREMENTS**

(a) Meals and snacks served to children in a child care center shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0102(1) of this Chapter.

(b) Menus for nutritious meals and snacks shall be planned at least one week in advance. At least one dated copy of the current week's menu shall be posted where it can be seen easily by parents and food preparation staff when food is prepared or provided by the center, except in centers with a licensed capacity of 3 to 12 children located in a residence. A variety of food shall be included in meals and snacks. Any substitution shall be of comparable food value and shall be recorded on the menu.

(c) Children ages two years and older shall be served either skim or low fat milk.

(e)(d) When children bring their own food for meals or snacks to the center, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the center must provide additional food necessary to meet those requirements. Food brought from home may reflect cultural and ethnic preferences, such as a vegetarian diet.

(d)(e) Drinking water must be freely available to children of all ages. Drinking fountains or individual drinking utensils shall be provided. When a private water supply is used, it must be tested by and meet the requirements of the Commission for Public Health.

(e)(f) Children's special diets or food allergies shall be posted in the food preparation area and in the child's eating area.

(f)(g) The food required by special diets for medical, religious or cultural reasons, may be provided by the center or may be brought to the center by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the center and written instructions shall be provided by the child's parent, health care professional, or a licensed dietician/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the center.

(g)(h) Food and beverages with little or no nutritional value served as a snack, such as cookies, chips, donuts, sweets, fruit drinks, soft drinks, etc., shall be available only for special occasions.

(i) Children shall not be served flavored milk or sugary drinks, including Kool-Aid, fruit drinks, sports drinks, sweet tea and soda. No more than 6 ounces of 100 percent fruit juice shall be offered per day.

(j) Staff shall role model appropriate eating behaviors by not consuming foods or beverages with little or no nutritional value in the presence of children in care.

(h)(k) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers shall be provided that include seating and an electrical outlet in a place other than a bathroom that is shielded from view by staff and the public which may be used by mothers while they are breastfeeding or expressing milk.

*Authority G.S. 110-85; 110-91(2); 143B-168.3.*

### **10A NCAC 09 .0902 GENERAL NUTRITION REQUIREMENTS FOR INFANTS**

(a) The parent or health care provider of each child under 15 months of age shall provide the center an individual written feeding schedule for the child. This schedule must be followed at the center. This schedule must include the child's name, be signed by the parent or health care provider, and be dated when received by the center. Each infant's schedule shall be modified in consultation, with the child's parent and/ or health care provider, to reflect changes in the child's needs as he or she develops. The feeding instructions for each infant shall be posted for quick reference by the caregivers, except in centers licensed for three to 12 children located in a residence.

(b) Each infant will be held for bottle feeding until able to hold his or her own bottle. Bottles will not be propped. Each child will be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.

(c) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietician/nutritionist.

*Authority G.S. 110-85; 110-91(2); 143B-168.3.*

**SECTION .1500 - TEMPORARY CARE REQUIREMENTS**

**10A NCAC 09 .1501 SCOPE**

~~The regulations in this Section apply to centers offering temporary care exclusively and to the temporary care component of any other licensed child care center. All regulations in this Subchapter pertaining to full time child care shall apply to temporary care arrangements, as defined in Rule .0102 of this Subchapter, except as provided in this Section.~~

*Authority G.S. 110-91; 143B-168.3.*

**10A NCAC 09 .1502 MEDICAL EXAMINATION**

~~A medical examination report shall not be required for any child who receives only drop-in care, as defined in Rule .0102 of this Subchapter, or for any school aged child who receives before/after school care only.~~

*Authority G.S. 110-91(1); 143B-168.3.*

**10A NCAC 09 .1503 BEDS, COTS, MATS AND LINENS**

~~(a) Neither a bed, cot, or mat and linen shall be required for any school aged child who receives either before or after school care or both, or seasonal care only.~~

~~(b) When drop in care is provided in combination with other types of care, a bed, cot, or mat must be provided for each preschool aged child present during rest time.~~

~~(c) Beds, cots, or mats do not have to be assigned to, or labeled for, each individual child.~~

~~(d) Each bed, cot, or mat must be sanitized, in a manner approved by the local health department, after being used by one child and before being used by a different child.~~

*Authority G.S. 110-91(1); 143B-168.3.*

**10A NCAC 09 .1504 ATTENDANCE RECORDS**

~~Accurate daily records showing the arrival and departure times of each child receiving drop in care shall be kept. When drop in care is provided in combination with other types of care, the daily attendance records of children in the drop in component shall be maintained separately from the attendance records of children in other components.~~

*Authority G.S. 110-91(9); 143B-168.3.*

**10A NCAC 09 .1506 OUTDOOR PLAY AREA**

~~If a child care center provides part time or drop in care exclusively, the center may choose to provide 35 square feet per child of indoor space in lieu of the outdoor play area as long as no child remains in care for more than a four hour period per day.~~

*Authority G.S. 110-91; 143B-168.3.*

**SECTION .1700 - FAMILY CHILD CARE HOME REQUIREMENTS**

**10A NCAC 09 .1702 APPLICATION FOR A LICENSE FOR A FAMILY CHILD CARE HOME**

(a) Any person who plans to operate a family child care home shall apply for a license using a form provided by the Division. The applicant shall submit the completed application, which complies with the following, to the Division:

- (1) Only one licensed family child care home shall operate at the location address of any home.
- (2) The applicant shall list each location address where a licensed family child care home will operate.

(b) When a family child care home will operate at more than one location address by cooperative arrangement among two or more families, the following procedures apply:

- (1) One parent whose home is used as a location address shall be designated the coordinating parent and shall co-sign the application with the applicant.
- (2) The coordinating parent shall know the current location address at all times and shall provide the information to the Division upon request.

(c) The applicant shall assure that the structure in which the family child care home is located complies with the following requirements:

- (1) The structure complies with the North Carolina Building Code for family child care homes or has written approval for use as a family child care home by the local building inspector.
- (2) The structure meets North Carolina Residential Building Code or is a manufactured home bearing a third party inspection label certifying compliance with the Federal Manufactured Home Construction and Safety Standards or certifying compliance with construction standards adopted and enforced by the State of North Carolina. Homes shall be installed in accordance with North Carolina Manufactured/Mobile Home Regulations adopted by the NC Department of Insurance. Exception: Single wide manufactured homes are limited to a maximum of three preschool-age children (not more than two may be two years of age or less) and two school-age children.
- (3) All children are kept on the ground level with an exit at grade.
- (4) All homes are equipped with an electrically operated (with a battery backup) smoke detector, or one electrically operated and one battery operated smoke detector located next to each other.
- (5) All homes are provided with at least one five pound 2-A: 10-B: C type extinguisher readily accessible for every 2,500 square feet of floor area.
- (6) Fuel burning space heaters, fireplaces and floor furnaces which are listed and approved by the Department of Insurance for that

installation and are provided with a protective screen attached securely to supports are allowed. Unvented fuel burning heaters and portable electric space heaters of all types are prohibited.

- (7) All indoor areas used by children are heated when the temperature is below 65 degrees and ventilated when the temperature is above 85 degrees.
- (8) Hot pipes or radiators which are hot enough to be capable of burning children and are accessible to the children are covered or insulated.
- ~~(9) Accommodations for breastfeeding mothers are provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.~~

(d) The applicant shall also submit supporting documentation with the application for a license to the Division. The supporting documentation shall include:

- (1) a copy of the certified criminal history check from the Clerk of Superior Court's office in the county or counties where the applicant and any household member(s) over age 15, have resided during the previous 12 months;
- (2) a copy of documentation of completion of a first aid and cardiopulmonary resuscitation (CPR) course;
- (3) proof of negative results of the applicant's tuberculosis test completed within the past 12 months;
- (4) a completed health questionnaire;
- (5) a copy of current pet vaccinations for any pet in the home;
- (6) a negative well water bacteriological analysis if the home has a private well;
- (7) copies of any inspections required by local ordinances; and
- (8) any other documentation required by the Division according to the rules in this Section to support the issuance of a license.

(e) Upon receipt of a complete application and supporting documentation, a Division representative shall make an announced visit to each home unless the applicant meets the criteria in Paragraph (g) of this Rule to determine compliance with the requirements, to offer technical assistance when needed, and to provide information about local resources. The issuance of a license applies as follows:

- (1) If all applicable requirements of G.S. 110 and this Section are met, a license shall be issued;
- (2) If the applicable requirements are not met but the applicant has the potential to comply, the Division representative shall establish with the applicant a time period for the home to achieve compliance. If the Division representative determines that all applicable requirements are

met within the established time period, a license shall be issued; or

- (3) If all applicable requirements are not met or cannot be met within the established time, the Division shall deny the application. Final disposition of the recommendation to deny is the decision of the Division.

(f) The Division shall allow the applicant to temporarily operate prior to the Division representative's visit described in Paragraph (e) of this Rule when the applicant is currently licensed as a family child care home operator, needs to relocate, and notifies the Division of the relocation; and the Division representative is unable to visit before the relocation occurs. A person shall not operate until he or she has received from the Division either temporary permission to operate or a license.

(g) When a person applies for a family child care home license, the Secretary may deny the application for the license under the following circumstances:

- (1) if any child care facility license previously held by that person has been denied, revoked or summarily suspended by the Division;
- (2) if the Division has initiated denial, revocation or summary suspension proceedings against any child care facility license previously held by that person and the person voluntarily relinquished the license;
- (3) during the pendency of an appeal of a denial, revocation or summary suspension of any child care facility license previously held by that person;
- (4) if the Division determines that the applicant has a relationship with an operator or former operator who previously held a license under an administrative action described in Subparagraph (g)(1), (2), or (3) of this Rule. As used in this Rule, an applicant has a relationship with a former operator if the former operator would be involved with the applicant's child care facility in one or more of the following ways:
  - (A) would participate in the administration or operation of the facility;
  - (B) has a financial interest in the operation of the facility;
  - (C) provides care to the children at the facility;
  - (D) resides in the facility; or
  - (E) would be on the facility's board of directors, be a partner of the corporation, or otherwise have responsibility for the administration of the business;
- (5) based on the person's previous non-compliance as an operator with the requirements of G.S. 110 and this Chapter; or
- (6) if abuse or neglect has been substantiated against the person, or if abuse or neglect was substantiated against a household member.

(h) In determining whether denial of the application for a license is warranted pursuant to Paragraph (g) of this Rule, the Division shall consider:

- (1) any documentation provided by the applicant which describes the steps the applicant will take to prevent reoccurrence of noncompliance issues which led to any prior administrative action taken against a license previously held by the applicant;
- (2) training certificates or original transcripts from a nationally recognized regionally accredited institution of higher learning related to providing quality child care for any coursework, and which were taken subsequent to any prior administrative action taken against a license previously held by the applicant. Nationally recognized means that every state in this nation acknowledges the validity of the coursework taken at higher education institutions that meet the requirements of one of the six regional accrediting bodies;
- (3) proof of employment in a licensed child care facility and references from the administrator or licensee of the child care facility regarding work performance;
- (4) documentation of collaboration or mentorship with a licensed child care provider to obtain additional knowledge and experience related to operation of a child care facility; and
- (5) documentation explaining relationships with persons meeting the criteria listed in Subparagraph (g)(4) of this Rule.

(i) The license shall not be bought, sold, or transferred from one individual to another.

(j) The license is valid only for the location address listed on it.

(k) The license must be returned to the Division in the event of termination, revocation, suspension, or summary suspension.

(l) The license shall be displayed in a prominent place that parents are able to view daily and shall be shown to each child's parent when the child is enrolled.

(m) A licensee shall notify the Division whenever a change occurs which affects the information shown on the license.

*Authority G.S. 110-85; 110-88(5); 110-91; 110-93; 110-99; 143B-168.3.*

#### **10A NCAC 09 .1706 NUTRITION STANDARDS**

(a) Meals and snacks served to children in a Family Child Care Home shall comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food, number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available

free of charge from the Division at the address in Rule .0102(1) of this Chapter.

(b) When children bring their own food for meals and snacks to the program, if the food does not meet the nutritional requirements specified in Paragraph (a) of this Rule, the operator must provide the additional food necessary to meet those requirements. Food brought from home may reflect cultural and ethnic foods, such as vegetarian preferences.

(c) The food required by special diets for medical, religious or cultural reasons, may be provided by the operator or may be brought to the program by the parents. If the diet is prescribed by a health care professional, a statement signed by the health care professional shall be on file at the program and written instructions must be provided by the child's parent, health care professional or a licensed dietician/nutritionist. If the diet is not prescribed by a health care professional, written instructions shall be provided by the child's parent and shall be on file at the program.

(d) Food with little or no nutritional value served as snack, such as cookies, chips, donuts; etc. shall be available only for special occasions.

(e) For children ages 24 months and older a meal or snack must be provided at least every four hours.

(f) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule for the child. This schedule shall be followed at the home. This schedule shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's schedule shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops.

(g) Parents shall be allowed to provide breast milk for their children. Accommodations for breastfeeding mothers are provided that include seating and an electrical outlet, in a place other than a bathroom, that is shielded from view by staff and the public, which may be used by mothers while they are breastfeeding or expressing milk.

(h) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age-appropriate seating apparatus to be fed.

(i) Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or according to written instructions from the child's health care professional.

(j) Infants shall not be served juice in a bottle without a prescription or written statement on file from a health care professional or licensed dietician/nutritionist.

(k) Drinking water must be freely available and offered to children on a frequent basis.

(l) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used.

(m) Children ages two years and older shall be served either skim or low fat milk.

(n) Children shall not be served flavored milk or sugary drinks, including Kool-Aid, fruit drinks, sports drinks, sweet tea and

soda. No more than 6 ounces of 100 percent fruit juice shall be offered per day.

*Authority G.S. 110-85; 110-91(2); 143B-168.3.*

**10A NCAC 09 .1718 REQUIREMENTS FOR DAILY OPERATIONS**

(a) The operator shall provide the following on a daily basis for all children in care:

~~(1) Meals and snacks which comply with the Meal Patterns for Children in Child Care Programs from the United States Department of Agriculture (USDA) which are based on the recommended nutrient intake judged by the National Research Council to be adequate for maintaining good nutrition. The types of food and number and size of servings shall be appropriate for the ages and developmental levels of the children in care. The Meal Patterns for Children in Child Care Programs are incorporated by reference and include subsequent amendments. A copy of the Meal Patterns for Children in Child Care Programs is available free of charge from the Division at the address in Rule .0102 of this Chapter;~~

~~(2) A meal or snack at least every four hours;~~

~~(3) Drinking water freely available to children;~~

~~(4)(1)~~ Developmentally appropriate equipment and materials for a variety of outdoor activities which allow for vigorous play, large and small muscle development, and social, emotional, and intellectual development. Each child shall have the opportunity for outdoor play each day that weather conditions permit. The operator shall provide space and time for vigorous indoor activities when children cannot play outdoors;

~~(5)(2)~~ An individual sleeping space such as a bed, crib, play pen, cot, mat, or sleeping bag with individual linens for each pre-school aged child in care for four hours or more, or for all children if overnight care is provided, to rest comfortably. Individual sleep requirements for infants aged 12 months or younger shall be provided for as specified in 10A NCAC 09 .1724(a)(2). Linens shall be changed weekly or whenever they become soiled or wet;

~~(6)(3)~~ A quiet, separate area which can be easily supervised for children too sick to remain with other children. Parents shall be notified immediately if their child becomes too sick to remain in care;

~~(7)(4)~~ Adequate supervision as described below:

(A) For children who are awake, staff shall interact with the children while moving about the indoor or outdoor area, and shall be able to hear and see the children at all times, except when emergencies necessitate that direct

supervision is impossible for brief periods of time; and

(B) For children who are sleeping or napping, the staff are not required to visually supervise them, but shall be able to hear and respond quickly to them. Children shall not sleep or nap in a room with a closed door between the children and the supervising staff. The staff shall be on the same level of the home where children are sleeping or napping.

~~(8)(5)~~ A safe sleep environment by ensuring that when a child is sleeping or napping, bedding or other objects shall not be placed in a manner that covers the child's face;

~~(9)(6)~~ The opportunity each day for each child under the age of 12 months to play while awake while positioned on his or her stomach;

~~(10)(7)~~ Developmentally appropriate activities as planned on a written schedule. Materials or equipment shall be available indoors and outdoors to support the activities listed on the written schedule. The written schedule shall:

(A) Show blocks of time usually assigned to types of activities and include periods of time for both active play and quiet play or rest;

(B) Be displayed in a place where parents are able to view;

(C) Reflect daily opportunities for both free choice and guided activities;

(D) Include a minimum of one hour of outdoor play throughout the day, if weather conditions permit; and

(E) Include a daily gross motor activity which may occur indoors or outdoors; and

~~(11)(8)~~ When screen time, including videos, video games, and computer usage, is provided, it shall be:

(A) Offered only as a free choice activity,

(B) Used to meet a developmental goal, and

(C) Limited to no more than two and a half hours per week for each child two years of age and older.

Usage time periods may be extended for specific special events, projects, occasions such as a current event, homework, on-site computer classes, holiday; and birthday celebration. Screen time is prohibited for children under the age of two years. The operator shall offer alternate activities for children under the age of two years.

~~(b) When milk, milk products, or fruit juices are provided by the operator, only pasteurized products or products which have undergone an equivalent process to pasteurization shall be used. Any formula which is prepared by the operator shall be prepared according to the instructions on the formula package or label, or~~

~~according to written instructions from the child's health care professional.~~

~~(c) Each infant shall be held for bottle feeding until able to hold his or her own bottle. Bottles shall not be propped. Each child shall be held or placed in feeding chairs or other age appropriate seating apparatus to be fed.~~

~~(d) The parent or health care professional of each child under 15 months of age shall provide the operator an individual written feeding schedule for the child. This schedule shall be followed at the home. This schedule shall include the child's name, be signed by the parent or health care professional, and be dated when received by the operator. Each infant's schedule shall be modified in consultation with the child's parent or health care professional to reflect changes in the child's needs as he or she develops.~~

Authority G.S. 110-85; 110-88; 110-91(2),(12).

\*\*\*\*\*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Medical Care Commission intends to amend the rules cited as 10A NCAC 13D .2101, .2209, .2304, .2308, .2605-.2607, .2701 and repeal the rule cited as 10A NCAC 13D .2110.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncdhhs.gov/dhsr/ruleactions.html>

**Proposed Effective Date:** June 1, 2012

**Public Hearing:**

**Date:** March 21, 2012

**Time:** 10:00 a.m.

**Location:** NC Division of Health Service Regulation, Lineberger Building, Room 134, Dorothea Dix Campus, 1205 Umstead Drive, Raleigh, NC 27603

**Reason for Proposed Action:** *In response to Executive Order 70, the purpose for the proposed rule amendments is to simplify and clarify current rule language, update reference names and addresses in rules, update rule authority in history notes, and add web site addresses to rules. In addition, the purpose of the repeal of one rule is that compliance is achieved through Public Records Law (G.S. Chapter 132), rendering this rule redundant.*

**Procedure by which a person can object to the agency on a proposed rule:** *An individual may object to the agency on the proposed rule by submitting written comments on the proposed rule. They may also object by attending the public hearing and personally voice their objections during that time.*

**Comments may be submitted to:** Megan Lamphere, Division of Health Service Regulation, 2708 Mail Service Center, Raleigh, NC 27699-2708; fax (919) 733-9379; email [DHSR.RulesCoordinator@dhhs.nc.gov](mailto:DHSR.RulesCoordinator@dhhs.nc.gov)

**Comment period ends:** April 2, 2012

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

## CHAPTER 13 - NC MEDICAL CARE COMMISSION

### SUBCHAPTER 13D - RULES FOR THE LICENSING OF NURSING HOMES

#### SECTION .2100 - LICENSURE

#### 10A NCAC 13D .2101 APPLICATION REQUIREMENTS

(a) ~~An~~ A legal entity shall submit an application for licensure for a new facility ~~shall be submitted~~ to the Nursing Home Licensure and Certification Section of the Division of Health Service Regulation at least 30 days prior to a license being issued or patients admitted.

(b) The application shall contain the following:

- (1) legal identity of applicant (licensee) and mailing address;
- (2) name or names under which the facility is presented to the public;
- (3) location and mailing address of facility;
- (4) ownership disclosure;
- ~~(5) accreditation data;~~
- ~~(6)(5)~~ bed complement;
- ~~(7)(6)~~ magnitude and scope of services offered;
- ~~(8)(7)~~ name and current license number of the administrator; ~~and~~
- ~~(9)(8)~~ name and current license number of the director of ~~nursing~~; nursing; and
- (9) name and current license number of the medical director.

Authority G.S. 131E-102; 131E-104.

**10A NCAC 13D .2110 PUBLIC ACCESS TO DEPARTMENT LICENSURE RECORDS**

~~(a) All Department files pertaining to the licensure of any facility under this Subchapter shall be open for inspection by any member of the public during normal business hours. The Department shall have an opportunity to ensure that none of the information identified in Paragraph (b) of this Rule will be disclosed during the inspection. Except for information identified in Paragraph (b) of this Rule, any member of the public may obtain copies of any information contained in the Department licensure files in accordance with Division of Health Service Regulation Directive 30, Publication Guidelines, which is incorporated by reference, including subsequent amendments. A copy of the directive may be obtained, without charge, from the Licensure and Certification Section, Division of Health Service Regulation, 2711 Mail Service Center, Raleigh, NC 27699-2711.~~

~~(b) Unless disclosure is ordered by a court of competent jurisdiction, the following classes of information shall not be disclosed to members of the public:~~

- ~~(1) information about the diagnosis, prognosis, treatment, or any other confidential medical information under G.S. 8-53, regarding a named person, unless that person consents in writing to the disclosure;~~
- ~~(2) the name of any person who provided information concerning a facility licensed under this Subchapter, or registered a complaint about the treatment of a patient unless that person consents to the disclosure;~~
- ~~(3) information identifying any person as a recipient of public assistance or social services, unless that person consents to the disclosure; and~~
- ~~(4) any confidential communication between the attorney for the Department and the Department.~~

~~(c) When documents in the file contain only confidential information of the types identified in Paragraph (b) of this Rule, then they shall be removed from the file before inspection. If a document contains both information of those types identified in Paragraph (b) of this Rule and non-confidential information, then the Department will provide for inspection a copy of the document from which the confidential information is deleted, in lieu of the original document.~~

*Authority G.S. 8-53; 108A-80; 131E-104; 131E-124(c); 132-1.1.*

**SECTION .2200 - GENERAL STANDARDS OF ADMINISTRATION**

**10A NCAC 13D .2209 INFECTION CONTROL**

(a) ~~The~~ A facility shall establish and maintain an infection control program for the purpose of providing a safe, clean and comfortable environment and preventing the transmission of diseases and infection.

(b) Under the infection control program, the facility shall decide what procedures, such as isolation techniques, are needed for

individual patients, investigate episodes of infection and attempt to control and prevent infections in the facility.

(c) The facility shall maintain records of infections and of the corrective actions taken.

(d) The facility shall ensure communicable disease ~~screening, testing including tuberculosis, as required by 10A NCAC 41A, "Communicable Disease Control" which is incorporated by reference, including subsequent amendments. Copies of these Rules may be obtained at no charge by contacting the N.C. Department of Health and Human Services, Division of Public Health, Tuberculosis Control Branch, 1902 Mail Service Center, Raleigh, North Carolina 27699-1902. Screening shall be done upon prior to admission of all patients being admitted from settings other than hospitals, nursing facilities or combination facilities; facilities, prior to or upon admission for all patients admitted from hospitals, nursing facilities and combination facilities; and Staff shall be screened within seven days upon the hiring of all staff, of the hire date.~~ The facility shall ensure tuberculosis screening annually thereafter for patients and staff ~~staff, as required by 10A NCAC 41A, "Communicable Disease Control" which is incorporated by reference, including subsequent amendments. Copies of these Rules may be obtained at no charge by contacting the N.C. Department of Health and Human Services, Division of Public Health, Tuberculosis Control Branch, 1902 Mail Service Center, Raleigh, North Carolina 27699-1902. Identification of a communicable disease does not, in all cases, in and of itself, preclude admission to the facility.~~

(e) All cases of reportable disease as defined by 10A NCAC 41A "Communicable Disease Control" and ~~epidemic outbreaks, and poisonings outbreaks consisting of two or more linked cases of disease transmission~~ shall be reported ~~immediately~~ to the local health department.

(f) The facility shall ~~isolate~~ use isolation precautions for any patient deemed appropriate by ~~the its~~ its infection control ~~program, program and as recommended by the following Centers for Disease Control guidelines, Management of Multidrug-Resistant Organisms In Healthcare Settings, 2006, <http://www.cdc.gov/ncidod/dhqp/pdf/ar/MDROGuideline2006.pdf> and 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings, <http://www.cdc.gov/hicpac/2007ip/2007isolationprecautions.html>~~ 1.

(g) The facility shall prohibit any employee with a communicable disease or infected skin lesion from direct contact with patients or their food, if direct contact is the mode of transmission of the disease.

(h) The facility shall require all staff to use good hand washing technique as indicated in the Centers for Disease ~~Control and Prevention "Guidelines for Hand Washing in Hospital Environmental Control," as published by the U.S. Department of Health and Human Services, Public Health Service which is incorporated by reference, including subsequent amendments. Copies may be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia, 22161 for fifteen dollars and 95 cents (\$15.95).~~ Control, "Guideline for Hand Hygiene in Health-Care Settings, Recommendations of the Healthcare Infection Control Practices Advisory Committee and the

HICPAC/SHEA/APIC/IDSA Hand Hygiene Task Force." This information can be accessed at <http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5116a1.htm>.

(i) All linen shall be handled, store, processed and transported so as to prevent the spread of infection.

*Authority G.S. 131E-104; 131E-113.*

## **SECTION .2300 - PATIENT AND RESIDENT CARE AND SERVICES**

### **10A NCAC 13D .2304 NURSE AIDES**

(a) ~~The A~~ facility shall employ or contract individuals as nurse aides in compliance with N.C. General Statute 131E, Article 15 and facilities certified for Medicare or Medicaid participation shall also comply with 42 CFR Part 483 which is incorporated by reference, including subsequent amendments. ~~Copies of the The~~ Code of Federal Regulations may be ~~purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15202-7954 for thirty eight dollars (\$38.00) and may be purchased with a credit card by a direct telephone call to the G.P.O. at (202) 512-1800.~~ accessed at [http://www.access.gpo.gov/nara/cfr/waisidx\\_08/42cfr483\\_08](http://www.access.gpo.gov/nara/cfr/waisidx_08/42cfr483_08).

(b) ~~The A~~ facility shall provide to the Department, upon request, verification of in-service training and of past or present employment of any nurse aide employed by the facility.

*Authority G.S. 131E-104; 131E-255; 143B-165; 42 U.S.C. 1395; 42 U.S.C. 1396.*

### **10A NCAC 13D .2308 ADULT CARE HOME PERSONNEL REQUIREMENTS**

(a) The administrator of a combination home shall designate a person to be in charge of the adult care home residents at all times. The nurse-in-charge of the nursing facility may also serve as supervisor-in-charge of the domiciliary beds.

(b) If adult care home beds are located in a separate building or a separate level of the same building, there shall be a person on duty in the adult care home portion of the facility at all times.

~~(c) The facility shall comply with all rules in Subchapter 10A NCAC 13F, Licensing of Homes for the Aged and Infirm, which is incorporated by reference, including all subsequent amendments. Copies of these Rules can be obtained free of charge from the Division of Health Service Regulation, Adult Care Licensure Section, 2708 Mail Service Center, Raleigh, NC 27699-2708.~~

*Authority G.S. 131E-104.*

## **SECTION .2600 - PHARMACEUTICAL SERVICES**

### **10A NCAC 13D .2605 DRUG STORAGE AND DISPOSITION**

(a) ~~The pharmacist and director of nursing~~ A facility shall ensure that drug storage areas are clean, secure, well lighted and well ventilated; that room temperature is maintained between 59 degrees F. and 86 degrees F.; and that the following conditions are met:

- (1) All drugs shall be maintained under locked security except when under the ~~immediate or~~ direct physical supervision of a nurse or pharmacist.
- (2) Drugs requiring refrigeration shall be stored in a refrigerator containing a thermometer and capable of maintaining a temperature range of 2 degrees C. to 8 degrees C. (36 degrees F. to 46 degrees F.) Drugs shall not be stored in a refrigerator containing non-drugs and non-drug related items, except when stored in a separate container.
- (3) Drugs intended for topical use, except for ophthalmic, otic and transdermal medications, shall be stored in ~~a designated an~~ area separate from the drugs intended for oral and injectable use.
- (4) Drugs that are outdated, discontinued or deteriorated shall be removed from the facility within five days.

(b) Upon discontinuation of a drug or upon discharge of a patient, the remainder of the drug supply shall be disposed of ~~promptly according to the facility's policy.~~ If it is reasonably expected that the patient ~~shall~~ will return to the facility and that the drug therapy will be resumed, the remaining drug supply may be held for not more than 30 calendar days after the date of discharge or discontinuation.

(c) The disposition of drugs shall be in accordance with written policies and procedures established by the Quality Assurance Committee.

(d) Destruction of controlled substances shall be in compliance with Disposal of Unused Controlled Substances From Nursing Home as described in North Carolina Controlled Substance Act and Regulations (10A NCAC 26E .0406) 10A NCAC 26E .0406, which is hereby incorporated by reference including subsequent amendments. ~~Copies of the rules may be obtained from the Drug Regulatory Branch, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3016 Mail Service Center, Raleigh, NC 27699-3016 at a cost of thirteen dollars (\$13.00). These Rules can be accessed online at~~ <http://reports.oah.state.nc.us/ncac.asp>.

*Authority G.S. 131E-104; 131E-117.*

### **10A NCAC 13D .2606 PHARMACEUTICAL RECORDS**

(a) ~~The pharmacist~~ A facility shall ensure that accurate records of the receipt, use and disposition of drugs are maintained and readily available.

(b) ~~The director of nursing and pharmacist~~ A facility shall ensure accountability of controlled substances as defined by the Disposal of Unused Controlled Substances From Nursing Home as described in North Carolina Controlled Substance Act and Regulations (10A NCAC 26E .0406) 10A NCAC 26E .0406, which is hereby incorporated by reference including subsequent amendments. ~~Copies of the rules may be obtained from the Drug Regulatory Branch, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3016 Mail Service Center, Raleigh, NC 27699-3016 at a cost of thirteen dollars~~



~~(\$13.00).~~ These Rules can be accessed online at <http://reports.oah.state.nc.us/ncac.asp>.

*Authority G.S. 131E-104; 131E-117.*

#### **10A NCAC 13D .2607 EMERGENCY DRUGS**

(a) ~~The A~~ facility shall maintain a supply of emergency drugs in compliance with ~~21 NCAC 46 .1403~~ 10A NCAC 26E .0408 which is hereby incorporated by reference including subsequent amendments. ~~Copies of the rule may be obtained from the North Carolina Board of Pharmacy, P.O. Box 459, Carrboro Plaza, Highway 54 Bypass, Carrboro, North Carolina 27510 at a cost of eight dollars and forty eight cents (\$8.48).~~ This Rule can be accessed online at <http://reports.oah.state.nc.us/ncac.asp>.

(b) Emergency drugs shall be stored in a portable container sealed with an easily breakable closure which cannot be resealed or reused and shall be readily accessible for use.

(c) Emergency drug kits shall be stored in a ~~secure area~~ locked storage cabinet or room out of ~~site~~ sight of patients and the general public. If stored in a locked area the kits shall be ~~immediately~~ accessible to all licensed nursing personnel.

(d) All emergency drugs and quantity to be maintained shall be approved by the Quality Assurance ~~Committee~~. Committee as defined in 10A NCAC 13D .2212.

(e) If emergency drug items require refrigerated storage, they shall be stored in a separate sealed container within the medication refrigerator. The container shall be labeled to indicate the emergency status of the enclosed drug and sealed as indicated in Paragraph (b) of this Rule.

(f) An accurate inventory of emergency drugs and supplies shall be maintained with each emergency drug kit.

(g) ~~The pharmacist~~ A facility shall ~~personally~~ examine the refrigerated and non-refrigerated emergency drug supply at least every 90 days and make any necessary changes at that time.

(h) The facility shall have written policies and procedures which are enforced to ensure that in the event the sealed emergency drug container is opened and contents utilized, ~~immediate~~ steps are taken to replace the items used.

(i) The availability of a controlled substance in an emergency kit shall be in compliance with the North Carolina Controlled Substances Act and Regulations (10A NCAC 26E) which is hereby incorporated by reference including subsequent amendments. ~~Copies of the rules may be obtained from the Drug Regulatory Branch, Division of Mental Health, Developmental Disabilities and Substance Abuse Services, 3016 Mail Service Center, Raleigh, NC 27699 3016 at a cost of thirteen dollars (\$13.00).~~ These Rules can be accessed online at <http://reports.oah.state.nc.us/ncac.asp>.

*Authority G.S. 131E-104; 131E-117.*

### **SECTION .2700 - DIETARY SERVICES**

#### **10A NCAC 13D .2701 PROVISION OF NUTRITION AND DIETETIC SERVICES**

(a) ~~The A~~ facility shall ensure that each patient is provided with a palatable diet that meets his or her daily nutritional and specialized nutritional needs.

(b) The facility shall designate a person to be known as the director of food service who shall be responsible for the facility's dietetic service and for supervision of dietetic service personnel. If this person is not a ~~dietitian~~, licensed dietitian/nutritionist or a registered dietitian with the Commission on Dietetic Registration, ~~he or she shall meet the criteria for membership in the Dietary Managers Association which is hereby incorporated by reference including subsequent amendments and editions. Copies of criteria may be obtained from the Dietary Managers Association, 406 Surry Woods Drive, St. Charles, IL 60174 at no cost, or it can be accessed online at www.DMAonline.org. If the course has not been completed, this person shall be enrolled in a course and making satisfactory progress for completion within the time limit specified by course requirements.~~ a Certified Dietary Manager who is certified by the Certifying Board of the Dietary Managers, Dietetic Technician Registered, who is registered by the Commission on Dietetic Registration of the American Dietetic Association, or an individual who has met the academic requirements as referenced in G.S. 90-357(3)b.1., c.1. and d., then the person shall enroll in a course of study to obtain these qualifications and make satisfactory progress for completion within the time limit specified by course requirements.

(c) If the food service supervisor is not a dietitian, the facility shall employ a licensed dietitian/nutritionist ~~dietitian~~ on at least a consultant basis. The consultant shall submit written reports of clinical and food service operation recommendations to the administrator and food service supervisor.

(d) The dietitian shall spend sufficient time in the facility to assure the following parameters of nutrition have been addressed and that recommended successful interventions by the facility have been met:

- (1) An analysis of weight loss or gain;
- (2) Laboratory values;
- (3) Clinical indicators of malnutrition;
- (4) Drug therapy that may contribute to nutritional deficiencies;
- (5) The amount of meal and supplement consumed to meet nutritional needs;
- (6) Increased nutritional needs related to disease state or deterioration in physical or mental status, i.e., decubitus, low protein status, inadequate intake, or nutrition provided via enteral or parenteral route.

(e) There shall be sufficient dietetic personnel employed ~~competent~~ to meet the nutritional needs of all patients in the areas of therapeutic diets, food preparation and service, principles of sanitation, and resident's rights as related to food services.

(f) The facility shall ensure that menus are followed which meet the nutritional needs of patients in accordance with the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences which are incorporated by reference, including subsequent amendments. Copies of this publication ~~can~~ may be obtained by contacting The National Academy Press, ~~2401 Constitution Avenue N.W., Lockbox 285, Washington, D.C., 20055.~~ 500 Fifth St. N.W., Washington, D.C. 20001 or accessing it at [http://www.nap.edu/catalog.php?record\\_id=1349](http://www.nap.edu/catalog.php?record_id=1349). Cost of

~~this publication is eighteen dollars and ninety-five cents (\$18.95) and includes shipping and handling.~~ Menus shall:

- (1) be planned at least 14 days in advance,
- (2) provide for substitutes of similar nutritive value for patients who refuse food that is served, and
- (3) be provided to patients orally or written through such methods as ~~posting, posting and daily announcements, periodic newsletters, etc.~~ announcements.

(g) Food must be prepared to conserve its nutritive value and appearance.

(h) Food shall be served at the preferred temperature as discerned by the resident and customary practice, in a form to meet the patient's individual needs and with assistive devices as dictated by the patient's needs. Hot foods shall leave the kitchen (or steam table) above ~~140~~ 135 degrees F; and cold foods below 41 degrees F; ~~F. and freezer temperatures at 0 degrees F or below. The freezer must keep frozen foods frozen solid.~~

(i) If patients require assistance in eating, food shall be maintained at the appropriate temperature until assistance is provided.

(j) All diets, including enteral and parenteral nutrition therapy, shall be as ordered by the physician or other legally authorized person, and served as ordered.

(k) At least three meals shall be served daily to all patients in accordance with medical orders.

(l) No more than 14 hours shall elapse between an evening meal containing a protein food and a morning meal containing a protein food.

(m) Hour-of-sleep (hs) nourishment shall be available to patients upon request or in accordance with nutritional plans.

(n) Between meal fluids for hydration shall be available and offered to all patients in accordance with medical orders.

(o) The facility shall have a current online or hard copy nutrition care manual or handbook approved by the dietitian, medical staff and the Administrator which shall be used in the planning of the regular and therapeutic diets and be accessible to all staff.

(p) Food services shall comply with Rules Governing the Sanitation of Restaurants and Other Foodhandling Establishments (15A NCAC 18A .1300) as promulgated by the Commission for Public Health which is are incorporated by reference, including subsequent amendments, assuring storage, preparation, and serving of food under sanitary conditions. Copies of these Rules can be ~~obtained, at no charge, by contacting the N.C. Department of Environment and Natural Resources, Division of Environmental Health Services, 1630 Mail Service Center, Raleigh, NC 27699-1630.~~ accessed online at <http://www.deh.enr.state.nc.us/rules.htm>.

Authority G.S. 90-368(4); 131E-104.

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## **TITLE 12 – DEPARTMENT OF JUSTICE**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards*

*Commission intends to amend the rules cited as 12 NCAC 09B .0106, .0203, .0305; 09D .0102, .0202; 09E .0102, .0105; and 09G .0206, .0309, .0311, .0602.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
*<http://ncdoj.gov/About-DOJ/Law-Enforcement-Training-and-Standards/Criminal-Justice-Education-and-Training-Standards/Forms-and-Publications.aspx>*

**Proposed Effective Date:** *May 1, 2012*

**Public Hearing:**

**Date:** *February 23, 2012*

**Time:** *1:00 p.m.*

**Location:** *Wake Technical Community College, Public Safety Education Campus, 321 Chapanoke Rd., Raleigh, NC 27603*

### **Reason for Proposed Action:**

**12 NCAC 09B .0106** – *Amended to clarify what constitutes a passing score on the GED exam.*

**12 NCAC 09B .0203** – *Amended to exempt partial enrollees who hold general law enforcement certification or who have held general certification within 12 months prior to the date of enrollment in a BLET course from being required to take a reading comprehension exam.*

**12 NCAC 09B .0305; 09G .0311** – *Changes the requirement for instructors to recertify by removing the requirement for instructors to teach in an area of specialized instruction when such area was added to an existing instructor certification with less than 12 months left until the end of the instructor's certification period.*

**12 NCAC 09D .0102, .0202; 09G .0602** – *The Commission wishes to prohibit an officer from receiving an award when the officer is "subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission, the Company and Campus Police Program, or the North Carolina Sheriffs' Education and Training Standards Commission."*

**12 NCAC 09E .0102, .0105** – *The Commission has changed the required topics for annual In-Service training for law enforcement officers. The following topics have been removed: Career Survival: Leadership and Mentoring (4 hours); Juvenile Minority Sensitivity Training: Interactions, Communications and Understanding (2 hours); and Domestic Violence: Lesbian, Gay, Bi-Sexual and Transgender (LGBT) Relationships (2 hours.). The following topics have been added: Career Survival: Social Networking and Digital Communications (4 hours); Juvenile Minority Sensitivity Training: Skills in Building Rapport (2 hours); Awareness of Issues Surrounding Returning Military Personnel (2 hours).*

**12 NCAC 09E .0105** – *The Criminal Justice Standards Division has moved and the new physical address has been amended in the rule.*

**12 NCAC 09G .0206** – *An error was made during the rule amendment process in 2009 resulting in the inadvertent omission of one line of text in the rule which stated that convicted felons could not be certified with the Department of Correction. The Commission wishes to reinstate the prohibition for certifying convicted felons.*

**12 NCAC 09G .0309** – Amended to require a probationary instructor to teach 12 hours instead of 8 hours during the probationary period. This change is consistent with the requirement for other criminal justice instructors.

**Procedure by which a person can object to the agency on a proposed rule:** *The objection, reasons for the objection, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to Teresa Marrella, Department of Justice, Criminal Justice Standards Division, P.O. Drawer 149, Raleigh, NC 27602.*

**Comments may be submitted to:** *Teresa Marrella, Criminal Justice Standards Division, P.O. Drawer 149, Raleigh, NC 27602; phone (919) 661-5980; fax (919) 779-8210; email tmarrella@ncdoj.gov*

**Comment period ends:** *April 2, 2012*

**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 (check all that apply).**

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Date submitted to OSBM:
- ☐ Substantial economic impact (≥\$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

## **CHAPTER 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS**

### **SUBCHAPTER 09B - STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT: EDUCATION: AND TRAINING**

#### **SECTION .0100 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE EMPLOYMENT**

#### **12 NCAC 09B .0106 DOCUMENTATION OF EDUCATIONAL REQUIREMENTS**

- (a) Each applicant for employment as a criminal justice officer shall furnish to the employing agency documentary evidence that the applicant has met the educational requirements for the criminal justice field of expected employment.
- (b) Documentary evidence of educational requirements shall consist of official transcripts of courses completed or diplomas received from a school which meets the approval guidelines of either the North Carolina Department of Public Instruction, the Division of Non-Public Instruction, or comparable out-of-state agency. The Director of the Standards Division shall determine whether other types of documentation will be permitted in specific cases. High school diplomas earned through correspondence enrollment are not recognized toward these minimum educational requirements.
- (c) Documentary evidence of ~~completion of~~ having passed the General Educational Development Test shall be satisfied by a certified copy of GED test ~~results~~ results, ~~showing a total score of not less than 225 points and a minimum score on any single test of 35 points.~~ A certified copy of a military GED diploma may be used as alternate evidence of GED completion.

*Authority G.S. 17C-6; 17C-10.*

### **SECTION .0200 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE SCHOOLS AND CRIMINAL JUSTICE TRAINING PROGRAMS OR COURSES OF INSTRUCTION**

#### **12 NCAC 09B .0203 ADMISSION OF TRAINEES**

- (a) The school director shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who is not a citizen of the United States.
- (b) The school shall not admit any individual younger than 20 years of age as a trainee in any non-academic basic criminal justice training course. Individuals under 20 years of age may be granted authorization for early enrollment as trainees in a presentation of the Basic Law Enforcement Training Course with prior written approval from the Director of the Standards Division. The Director shall approve early enrollment as long as the individual turns 20 years of age prior to the date of the State Comprehensive Examination for the course.
- (c) The school shall give priority admission in certified criminal justice training courses to individuals holding full-time employment with criminal justice agencies.
- (d) The school shall not admit any individual as a trainee in a presentation of the "Criminal Justice Instructor Training Course" who does not meet the education and experience requirements for instructor certification under Rule .0302(1) of this Subchapter within 60 days of successful completion of the Instructor Training State Comprehensive Examination.
- (e) The school shall not admit an individual, including partial or limited enrollees, as a trainee in a presentation of the Basic Law Enforcement Training Course unless the individual has taken the reading component of a nationally standardized test within one year prior to admission to Basic Law Enforcement Training and has scored at or above the tenth grade level, or the equivalent. ~~A nationally standardized test is a test that:~~

- (1) For the purpose of this Rule, partial or limited enrollee does not include enrollees who currently hold general certification or who have held general certification within 12 months prior to the date of enrollment.

- (2) A nationally standardized test is a test that:  
~~(A)~~ reports scores as national percentiles, stanines or grade equivalents; and  
~~(B)~~ compares student test results to a national norm.

(f) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless as a prerequisite the individual has provided to the School Director a medical examination report, completed by a physician licensed to practice medicine in North Carolina, a physician's assistant, or a nurse practitioner, to determine the individual's fitness to perform the essential job functions of a criminal justice officer. The Director of the Standards Division shall grant an exception to this standard for a period of time not to exceed the commencement of the physical fitness topical area when failure to timely receive the medical examination report is not due to neglect on the part of the trainee.

(g) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course unless as a prerequisite the individual is a high school graduate or has passed the General Educational Development Test indicating high school equivalency. High school diplomas earned through correspondence enrollment are not recognized toward the educational requirements.

(h) The school shall not admit any individual trainee in a presentation of the Basic Law Enforcement Training Course unless as a prerequisite the individual has provided the certified School Director a certified criminal record check for local and state records for the time period since the trainee has become an adult and from all locations where the trainee has resided since becoming an adult. An Administrative Office of the Courts criminal record check or a comparable out-of-state criminal record check will satisfy this requirement.

(i) The school shall not admit any individual as a trainee in a presentation of the Basic Law Enforcement Training Course who has been convicted of the following:

- (1) a felony;
- (2) a crime for which the punishment could have been imprisonment for more than two years;
- (3) a crime or unlawful act defined as a "Class B Misdemeanor" within the five year period prior to the date of application for employment unless the individual intends to seek certification through the North Carolina Sheriffs' Education and Training Standards Commission;
- (4) four or more crimes or unlawful acts as defined as "Class B Misdemeanors" regardless of the date of conviction;
- (5) four or more crimes or unlawful acts defined as "Class A Misdemeanors" except the trainee may be enrolled if the last conviction occurred more than two years prior to the date of enrollment;

- (6) a combination of four or more "Class A Misdemeanors" or "Class B Misdemeanors" regardless of the date of conviction unless the individual intends to seek certification through the North Carolina Criminal Justice Education and Training Standards Commission.

(j) Individuals charged with crimes as specified in Paragraph (i) of this Rule, and such offenses were dismissed or the person was found not guilty, may be admitted into the Basic Law Enforcement Training Course but completion of the Basic Law Enforcement Training Course does not ensure that certification as a law enforcement officer or justice officer through the North Carolina Criminal Justice Education and Training Standards Commission will be issued. Every individual who is admitted as a trainee in a presentation of the Basic Law Enforcement Training Course shall notify the School Director of all criminal offenses which the trainee is arrested for or charged with, pleads no contest to, pleads guilty to or is found guilty of, and notify the School Director of all Domestic Violence Orders (G.S. 50B) which are issued by a judicial official that provide an opportunity for both parties to be present. This includes all criminal offenses except minor traffic offenses and specifically includes any offense of Driving Under the Influence (DUI) or Driving While Impaired (DWI). A minor traffic offense is defined, for the purposes of this Paragraph, as an offense where the maximum punishment allowable by law is 60 days or less. Other offenses under G.S. 20 (Motor Vehicles) or other similar laws of other jurisdictions which shall be reported to the School Director include G.S. 20-139 (persons under influence of drugs), G.S. 20-28 (driving while license permanently revoked or permanently suspended), G.S. 20-30(5) (fictitious name or address in application for license or learner's permit), G.S. 20-37.8 (fraudulent use of a fictitious name for a special identification card), G.S. 20-102.1 (false report of theft or conversion of a motor vehicle), G.S. 20-111(5) (fictitious name or address in application for registration), G.S. 20-130.1 (unlawful use of red or blue lights), G.S. 20-137.2 (operation of vehicles resembling law enforcement vehicles), G.S. 20-141.3 (unlawful racing on streets and highways), G.S. 20-141.5 (speeding to elude arrest), and G.S. 20-166 (duty to stop in event of accident). The notifications required under this Paragraph must be in writing, must specify the nature of the offense, the court in which the case was handled, the date of the arrest or criminal charge, the date of issuance of the Domestic Violence Order (G.S. 50B), the final disposition, and the date thereof. The notifications required under this Paragraph must be received by the School Director within 30 days of the date the case was disposed of in court. The requirements of this Paragraph are applicable at all times during which the trainee is enrolled in a Basic Law Enforcement Training Course. The requirements of this Paragraph are in addition to the notifications required under 12 NCAC 10B .0301 and 12 NCAC 09B .0101(8).

*Authority G.S. 17C-6; 17C-10.*

#### **SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS**

**12 NCAC 09B .0305 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to run concurrently with the existing General Instructor Certification, except as set out in (d). The applicant must apply for certification as a specialized instructor within 60 days from the date of completion of a specialized instructor course.

(b) The terms of certification as a specialized instructor is determined by the expiration date of the existing General Instructor Certification. The following requirements apply during the initial period of certification:

- (1) where certification for both general probationary instructor and Specialized Instructor Certification is issued on the same date, the instructor is required to satisfy the teaching requirement for only the general probationary instructor certification. The instructor may satisfy the teaching requirement for the general probationary instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or full general status, the specialized instructor may satisfy the teaching requirement for the general certification by teaching the specialized subject for which certification has been issued;
- (3) where Specialized Instructor Certification becomes concurrent with an existing 36 month period of General Instructor Certification, and there are 12 months or more until the certification expiration date, the instructor must teach 12 hours for each specialized topic for which certification has been issued;
- (4) where Specialized Instructor Certification becomes concurrent with an existing 36 month period of General Instructor Certification, and there are less than 12 months until the certification expiration date, the instructor is not required to teach any hours for the specialized subject.

(c) The term of certification as a specialized instructor shall not exceed the 36 month period of full General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the three year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted and such instruction must be in a Commission-accredited training course or a Commission-recognized in-service training course. Acceptable documentary

evidence shall include official Commission records submitted by School Directors or in-service training coordinators and written certification from a School Director or in-service training coordinator; and

- (2) proof that the applicant has, within the three year period preceding application for renewal, attended and successfully completed any instructor updates that have been issued by the Commission. Acceptable documentary evidence shall include official Commission records submitted by School Directors or In-Service Training Coordinators, or copies of certificates of completion issued by the institution which provided the instructor updates; and
- (3) either:

(A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form that the instructor successfully taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of Specialized Instructor Certification; or

(B) a favorable evaluation by a Commission or staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a Commission or staff member must also teach at least 12 hours in each of the topics for which Specialized Instructor Certification was granted.

Upon submission of the required documentation for renewal the Commission staff shall renew the certification as a Specialized Instructor. Such renewal shall occur at the time of renewal of the General Instructor certification.

(d) Certification as a specialized instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical

areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of this Section, specifically those certifications not based upon General Instructor Certification, shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for specialized instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas must be maintained.

(e) All instructors shall remain active during their period of certification. If an instructor does not teach at least 12 hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to teach. Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not teach at least 12 hours in each of the specialized topics during the three year period for which certification was granted. Upon application for re-certification, such applicants shall meet the requirements of Rule .0304 of this Section.

(f) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" is permissible. However, such guest participants are subject to the direct on-site supervision of a Commission-certified instructor and must be authorized by the School Director. A guest participant shall only be used to complement the primary certified instructor of the block of instruction and shall in no way replace the primary instructor.

*Authority G.S. 17C-6.*

## **SUBCHAPTER 09D – PROFESSIONAL CERTIFICATE PROGRAMS**

### **SECTION .0100 - LAW ENFORCEMENT OFFICERS' PROFESSIONAL CERTIFICATE PROGRAM**

#### **12 NCAC 09D .0102 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the professional awards, an officer shall first meet the following preliminary qualifications:

- (1) The officer shall presently hold general law enforcement officer certification. A person serving under a probationary certification is not eligible for consideration. An officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission, the Company and Campus Police Program, or the North Carolina Sheriffs' Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding.
- (2) The officer shall be familiar with and subscribe to the Law Enforcement Code of Ethics.
- (3) The officer shall be a full-time, sworn, paid member of a law enforcement agency within the state.

- (4) Applicants shall be given credit for the satisfactory completion of all in-service law enforcement training which is not mandated by the Commission pursuant to 12 NCAC 09E .0102.
- (5) Applicants shall not be given credit for the satisfactory completion of Commission-mandated Basic Law Enforcement Training courses.
- (6) Full-time, paid employees of a law enforcement agency within the State who have successfully completed a Commission-accredited law enforcement officer basic training program and have previously held general law enforcement officer certification as specified in 12 NCAC 09D .0102(a)(1), but are presently, by virtue of promotion or transfer, serving in non sworn positions not subject to certification are eligible to participate in the professional certificate program. Eligibility for this exception requires continuous employment with the law enforcement agency from the date of promotion or transfer from a sworn, certified position to the date of application for a professional certificate.

(b) Awards are based upon a formula which combines formal education, law enforcement training, and actual experience as a law enforcement officer. Points are computed in the following manner:

- (1) Each semester hour of college credit shall equal one point and each quarter hour shall equal two-thirds of a point;
- (2) Twenty classroom hours of Commission-approved law enforcement training shall equal one point;
- (3) Only experience as a full-time, sworn, paid member of a law enforcement agency or equivalent experience shall be acceptable for consideration.

*Authority G.S. 17C-6.*

### **SECTION .0200 - CRIMINAL JUSTICE OFFICERS' PROFESSIONAL CERTIFICATE PROGRAM**

#### **12 NCAC 09D .0202 GENERAL PROVISIONS**

(a) The officer shall presently hold general criminal justice officer certification. A person serving under a probationary certification is not eligible for consideration. An officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission, the Company and Campus Police Program, or the North Carolina Sheriffs' Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding.

(b) The officer shall hold general certification with the Commission in the category of state youth services officer.

(c) The officer shall be a permanent, paid member of a criminal justice agency within the State.

(d) Permanent, paid employees of the Department of Juvenile Justice and Delinquency Prevention, who have successfully completed a Commission-accredited criminal justice officer basic training program and have previously held general certification as specified in 12 NCAC 09D .0202(a)(1) and 12 NCAC 09D .0202(a)(2), but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the professional certificate program. Eligibility for this exception requires continuous employment with the Department of Juvenile Justice and Delinquency Prevention from the date of promotion or transfer from a certified position to the date of application for a professional certificate.

(e) Each semester hour of college credit shall equal one point and each quarter hour shall equal two-thirds of a point;

(f) Twenty classroom hours of Commission-approved criminal justice training shall equal one point;

(g) Only experience as a permanent, paid member of a criminal justice agency or the equivalent experience as determined by the Commission shall be acceptable of consideration.

(c) Separate sub-programs will be administered as follows: The Youth Services Certificate is appropriate for permanent, paid state youth services officers employed by the Department of Juvenile Justice and Delinquency Prevention.

*Authority G.S. 17C-6.*

## SUBCHAPTER 09E – IN-SERVICE TRAINING PROGRAMS

### SECTION .0100 - LAW ENFORCEMENT OFFICER'S IN-SERVICE TRAINING PROGRAM

#### 12 NCAC 09E .0102      **REQUIRED ANNUAL IN-SERVICE TRAINING TOPICS**

The following topical areas are hereby established as minimum topics and hours to be included in the law enforcement officers' annual in-service training program:

- (1) Firearms Training and Qualification (4);
- (2) Legal Update (4);
- (3) Career Survival: ~~Leadership and Mentoring~~ Social Networking and Digital Communications (4);
- (4) Juvenile Minority Sensitivity Training: ~~Interactions, Communications and Understanding~~ Interaction Skills in Building Rapport (2);
- (5) ~~Domestic Violence: Lesbian, Gay, Bi Sexual and Transgender (LGBT) Relationships~~ Awareness of Issues Surrounding Returning Military Personnel (2); and
- (6) Department Topics of Choice (8).

*Authority G.S. 17C-6; 17C-10.*

#### 12 NCAC 09E .0105      **MINIMUM TRAINING SPECIFICATIONS: ANNUAL IN-SERVICE TRAINING**

(a) The following specifications shall be incorporated in each law enforcement agency's annual in-service training courses:

- (1) Firearms:
  - (A) Use of Force: review the authority to use deadly force [G.S. 15A-401(d)(2)] including the relevant case law and materials;
  - (B) Safety:
    - (i) range rules and regulations;
    - (ii) handling of a firearm; and
    - (iii) malfunctions;
  - (C) Review of Basic Marksmanship Fundamentals:
    - (i) grip, stance, breath control and trigger squeeze;
    - (ii) sight and alignment/sight picture; and
    - (iii) nomenclature; and
- (2) Legal Update (4);
- (3) Career Survival: ~~Leadership and Mentoring~~ Social Networking and Digital Communications (4);
- (4) Juvenile Minority Sensitivity Training: ~~Interactions, Communications and Understanding~~ Interaction Skills in Building Rapport (2);
- (5) ~~Domestic Violence: Lesbian, Gay, Bi Sexual and Transgender (LGBT) Relationships~~ Awareness of Issues Surrounding Returning Military Personnel (2); and
- (6) Department Topics of Choice (8).

(b) The "Specialized Firearms Instructor Training Manual" as published by the North Carolina Justice Academy shall be applied as a guide for conducting the annual in-service firearms training program. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
~~114 West Edenton Street~~ 1700 Tryon Park Drive  
~~Old Education Building~~  
~~Post Office Drawer 149~~  
Raleigh, North Carolina ~~27602~~ 27610

(c) The In-Service Lesson Plans as published by the North Carolina Justice Academy shall be applied as a minimum curriculum for conducting the annual in-service training program. Copies of this publication may be inspected at the office of the agency:

Criminal Justice Standards Division  
North Carolina Department of Justice  
~~114 West Edenton Street~~ 1700 Tryon Park Drive  
~~Old Education Building~~  
~~Post Office Drawer 149~~  
Raleigh, North Carolina ~~27602~~ 27610

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

North Carolina Justice Academy  
Post Office Drawer 99

Salemberg, North Carolina 28385

*Authority G.S. 17C-6; 17C-10.*

**SUBCHAPTER 09G - STANDARDS FOR CORRECTIONS  
EMPLOYMENT, TRAINING, AND CERTIFICATION**

**SECTION .0200 - MINIMUM STANDARDS FOR  
CERTIFICATION OF CORRECTIONAL OFFICERS,  
PROBATION/PAROLE OFFICERS, AND  
PROBATION/PAROLE OFFICERS-SURVEILLANCE**

**12 NCAC 09G .0206 MORAL CHARACTER**

Every person employed as a correctional officer, probation/parole officer, or probation/parole officer-intermediate by the North Carolina Department of Correction shall demonstrate good moral character as evidenced by, but not limited to:

- (1) not having been convicted of a felony;
- (~~1~~)(2) not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(9) for three years or the completion of any corrections supervision imposed by the courts whichever is later;
- (~~2~~)(3) not having been convicted of an offense that, under 18 USC ~~922(g)(8)~~, 922, would prohibit the possession of a firearm or ammunition;
- (~~3~~)(4) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the Department of Correction which meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs, copies of which may be obtained from National Institute on Drug Abuse, 5600 Fisher Lane, Rockville, Maryland 20857 at no cost, to detect the illegal use of at least cannabis, cocaine, phencyclidine (PCP), opiates and amphetamines or their metabolites;
- (~~4~~)(5) submitting to a background investigation consisting of:
  - (a) verification of age;
  - (b) verification of education; and
  - (c) criminal history check of local, state, and national files; and
- (~~5~~)(6) being truthful in providing all required information as prescribed by the application process.

*Authority G.S. 17C-6; 17C-10.*

**SECTION .0300 - CERTIFICATION OF  
CORRECTIONAL OFFICERS, PROBATION/PAROLE  
OFFICERS, PROBATION/PAROLE OFFICERS-  
INTERMEDIATE, AND INSTRUCTORS**

**12 NCAC 09G .0309 TERMS AND CONDITIONS OF  
GENERAL INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for certification as a general instructor shall, for the first 12 months of certification, be in a probationary status. The General Instructor Certification, Probationary Status, shall automatically expire 12 months from the date of issuance.

(b) The probationary instructor shall be eligible for full general instructor status if the instructor, through application at the end of the probationary period, submits to the Commission:

- (1) a favorable recommendation from a School Director accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of ~~eight~~ twelve hours in a Commission-certified course or a Commission-recognized in-service training course during the probationary year. The results of the student evaluation of the instructor must be considered by the School Director when determining recommendation; or
- (2) a written evaluation by a staff member, based on an on-site classroom evaluation of the probationary instructor in a Commission-certified course or a Commission-recognized in-service training course. Such evaluation shall be certified on a Commission Instructor Evaluation Form. In addition, instructors evaluated by a staff member must also teach a minimum of ~~eight~~ 12 hours in a Commission-certified training course or a Commission-recognized in-service training course.

(c) The term of certification as a general instructor is three years from the date the Commission issues the certification. The certification may subsequently be renewed by the Commission for three year periods. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0308 documentary evidence indicating that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include, at a minimum, the following:

- (1) proof that the applicant has, within the three year period preceding application for renewal, instructed a minimum of 12 hours in a Commission-certified training course or a Commission-recognized in-service training course; and
- (2) either:
  - (A) a favorable written recommendation from a School Director accompanied by certification on a Commission Instructor Evaluation Form that the instructor successfully taught a minimum of twelve hours in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of general certification; or



- (B) a written evaluation by a staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of General Instructor Certification.

(d) If an instructor does not teach a minimum of 12 hours during the period of certification, the certification shall not be renewed, and the instructor shall file application for General Instructor Certification, Probationary Status. Such applicants shall be required to meet the minimum requirements of 12 NCAC 09G .0308 of this Section.

(e) All instructors shall have 90 days from the date of the expiration of their instructor certification to submit an application for renewal along with documentation of having met the minimum requirements of Paragraph (c) of this Rule during the previous certification period. The prescribed 90 day period shall not extend the instructor certification period beyond its specified expiration period. If the renewal application is not submitted within 90 days from the expiration of the previous certification, the applicant will be required to meet the minimum requirements for general instructor certification as specified in Rule .0302 of this Section.

*Authority G.S. 17C-6.*

#### **12 NCAC 09G .0311 TERMS AND CONDITIONS OF SPECIALIZED INSTRUCTOR CERTIFICATION**

(a) An applicant meeting the requirements for Specialized Instructor Certification shall be issued a certification to run concurrently with the existing General Instructor Certification. The applicant must apply for certification as a specialized instructor within 60 days from the date of completion of a specialized instructor course.

(b) The terms of certification as a specialized instructor shall be determined by the expiration date of the existing General Instructor Certification. The following requirements shall apply during the initial period of certification:

- (1) where certification for both general probationary instructor and Specialized Instructor Certification is issued on the same date, the instructor shall only be required to satisfy the teaching requirement for the general probationary instructor certification. The instructor may satisfy the teaching requirement for the general probationary instructor certification by teaching any specialized topic for which certification has been issued;
- (2) when Specialized Instructor Certification is issued during an existing period of General Instructor Certification, either probationary status or full general status, the specialized instructor may satisfy the teaching requirement for the General Certification by teaching the specialized subject for which certification has been issued; and

- (3) where Specialized Instructor Certification becomes concurrent with an existing 36 month period of General Instructor Certification, and there are 12 months or more until the certification expiration date, the instructor must teach 12 hours for each specialized topic for which certification has been issued;

- (4) where Specialized Instructor Certification becomes concurrent with an existing 36 month period of General Instructor Certification, and there are less than 12 months until the certification expiration date, the instructor is not required to teach any hours for the specialized subject.

(c) The term of certification as a specialized instructor shall not exceed the 36 month period of full General Instructor Certification. The certification may subsequently be renewed by the Commission at the time of renewal of the full General Instructor Certification. The application for renewal shall contain, in addition to the requirements listed in 12 NCAC 09G .0310 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three year period. Such documentary evidence shall include the following:

- (1) proof that the applicant has, within the three year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted and such instruction must be in a Commission-certified training course or a Commission-recognized in-service training course. Acceptable documentary evidence shall include official Commission records submitted by School Directors and written certification from a School Director; and
- (2) either:
  - (A) a favorable written recommendation from a School Director accompanied by certification that the instructor successfully taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. Such teaching must have occurred in a Commission-certified training course or a Commission-recognized in-service training course during the three year period of Specialized Instructor Certification; or
  - (B) a written evaluation by a staff member, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-certified training course or a Commission-recognized in-service training course, during the three year period of Specialized Instructor Certification.

(d) If an instructor does not teach at least 12 hours in each of the topic areas for which certification is granted, the certification shall not be renewed for those topics in which the instructor failed to successfully teach. Any specialized instructor training courses previously accepted by the Commission for purposes of certification shall no longer be recognized if the instructor does not successfully teach at least eight hours in each of the specialized topics during the three year period for which certification was granted. Upon application for re-certification, such applicants shall be required to meet the requirements of 12 NCAC 09G .0310.

*Authority G.S. 17C-6.*

## **SECTION .0600 - PROFESSIONAL CERTIFICATE PROGRAM**

### **12 NCAC 09G .0602 GENERAL PROVISIONS**

(a) In order to be eligible for one or more of the professional awards, an officer shall first meet the following preliminary qualifications, except as provided for in 12 NCAC 09G .0602(a)(4):

- (1) The officer shall presently hold general corrections officer certification. A person serving under a probationary certification is not eligible for consideration. An officer subject to suspension or revocation proceedings or under investigation for possible decertification action by the Commission, the Company and Campus Police Program, or the North Carolina Sheriffs' Education and Training Standards Commission shall not be eligible for professional awards for the pendency of the proceeding.
- (2) The officer shall hold general certification with the Commission in one of the following categories:
  - (A) correctional officer;
  - (B) probation/parole officer; or
  - (C) probation/parole officer-intermediate.
- (3) The officer shall be a permanent, full-time, paid employee of the North Carolina Department of Correction.
- (4) Permanent, paid employees of the Department of Correction who have successfully completed a ~~Commission-accredited~~ Commission-certified corrections officer basic training program and have previously held general certification as specified in 12 NCAC 09G .0602(a)(1) and 12 NCAC 09G .0602(a)(2), but are presently, by virtue of promotion or transfer, serving in positions not subject to certification are eligible to participate in the professional certificate program. Eligibility for this exception requires continuous employment with the Department of Correction from the date of promotion or transfer from a certified position

to the date of application for a professional certificate.

(b) Awards are based upon a formula which combines formal education, corrections training, and actual experience as a corrections officer. Points are computed in the following manner:

- (1) each semester hour of college credit shall equal one point and each quarter hour shall equal two-thirds of a point;
- (2) 20 classroom hours of Commission-approved corrections training shall equal one point;
- (3) only experience as a permanent, paid employee of the North Carolina Department of Correction or the equivalent experience as determined by the Commission shall be acceptable of consideration.

Point requirements for each award are described in 12 NCAC 09G .0604 and .0605.

(c) Certificates shall be awarded in an officer's area of expertise only. The State Corrections Certificate is appropriate for permanent, paid corrections employees employed by the North Carolina Department of Correction.

*Authority G.S. 17C-6.*

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## **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 02D .0544.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<http://www.ncair.org/rules/hearing/>

**Proposed Effective Date:** July 1, 2012

**Public Hearing:**

**Date:** March 14, 2012

**Time:** 6:00 p.m.

**Location:** NC DENR, Greensquare Building, Training Room #1210, 217 West Jones Street, Raleigh, NC 27603

**Reason for Proposed Action:** To amend 15A NCAC 02D .0544, *Prevention of Significant Deterioration (PSD) Requirements for Greenhouse Gases*, to defer application of the PSD and Title V permitting requirements to biogenic carbon dioxide (CO<sub>2</sub>) emissions from bioenergy and other biogenic stationary sources for three years, as promulgated by United States Environmental Protection Agency (USEPA) on July 20, 2011 (76 FR 43490). The Environmental Management Commission (EMC) is taking comment on the economic assessment. Currently the economic assessment only addresses costs and benefits of the affected sources. The EMC requests information relative to the costs and benefits to all parties resulting from the proposed action, in particular, human health effects and impacts to ecosystem services associated with

variation in carbon dioxide and other pollutant emissions from biomass sources.

**Procedure by which a person can object to the agency on a proposed rule:** *If you have any objections to the proposed rule, please mail a letter including your specific reasons to: Ms. Joelle Burleson, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1541,*

**Comments may be submitted to:** *Joelle Burleson, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8720; fax (919) 707-8720; email joelle.burleson@ncdenr.gov*

**Comment period ends:** *April 2, 2012*

**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 (check all that apply).**

- ☒ State funds affected
- ☐ Environmental permitting of DOT affected
- ☐ Analysis submitted to Board of Transportation
- ☒ Local funds affected
- ☐ Date submitted to OSBM: *October 28, 2011*
- ☒ Substantial economic impact ( $\geq$ \$500,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

## CHAPTER 02 - ENVIRONMENTAL MANAGEMENT COMMISSION

### SUBCHAPTER 02D - AIR POLLUTION CONTROL REQUIREMENTS

#### SECTION .0500 - EMISSION CONTROL STANDARDS

##### **15A NCAC 02D .0544 PREVENTION OF SIGNIFICANT DETERIORATION REQUIREMENTS FOR GREENHOUSEGASES**

(a) The purpose of this Rule is to implement a program for the prevention of significant deterioration of air quality for greenhouse gases as required by 40 CFR 51.166. For purposes of greenhouse gases, the provisions of this Rule shall apply rather than the provisions of Rule .0530 of this Section. For all

other regulated NSR pollutants, the provisions of Rule .0530 of this Section apply.

(b) For the purposes of this Rule, the definitions contained in 40 CFR 51.166(b) and 40 CFR 51.301 shall apply except the definition of "baseline actual emissions." "Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated new source review (NSR) pollutant, as determined in accordance with Subparagraphs (1) through (3) of this Paragraph:

- (1) For an existing emissions unit, baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding the date that a complete permit application is received by the Division for a permit required under this Rule. The Director shall allow a different time period, not to exceed 10 years immediately preceding the date that a complete permit application is received by the Division, if the owner or operator demonstrates that it is more representative of normal source operation. For the purpose of determining baseline actual emissions, the following shall apply:
  - (A) The average rate shall include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions;
  - (B) The average rate shall be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period;
  - (C) For an existing emission unit (other than an electric utility steam generating unit), the average rate shall be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply. However, if the State has taken credit in an attainment demonstration or maintenance plan consistent with the requirements of 40 CFR 51.165(a)(3)(ii)(G) for an emission limitation that is part of a maximum achievable control technology standard that the Administrator proposed or promulgated under part 63 of the Code of Federal Regulations, the baseline actual emissions shall be adjusted to account for such emission reductions;

- (D) For an electric utility steam generating unit, the average rate shall be adjusted downward to reflect any emissions reductions under G.S. 143-215.107D and for which cost recovery is sought pursuant to G.S. 62-133.6;
- (E) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A different consecutive 24-month period for each regulated NSR pollutant can be used for each regulated NSR pollutant; and
- (F) The average rate shall not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by Parts (B) and (C) of this Subparagraph;

- (2) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of such unit shall equal zero; and thereafter, for all other purposes, shall equal the unit's potential to emit; and
- (3) For a plantwide applicability limit (PAL) for a stationary source, the baseline actual emissions shall be calculated for existing emissions units in accordance with the procedures contained in Subparagraph (1) of this Paragraph and for a new emissions unit in accordance with the procedures contained in Subparagraph (2) of this Paragraph.

(c) In the definition of "net emissions increase," the reasonable period specified in 40 CFR 51.166(b)(3)(ii) shall be seven years.

(d) The limitation specified in 40 CFR 51.166(b)(15)(ii) shall not apply.

(e) Major stationary sources and major modifications shall comply with the requirements contained in 40 CFR 51.166(i) and (a)(7) and by extension in 40 CFR 51.166(j) through (o) and (w). The transition provisions allowed by 40 CFR 52.21 (i)(11)(i) and (ii) and (m)(1)(vii) and (viii) are hereby adopted under this Rule. The minimum requirements described in the portions of 40 CFR 51.166 referenced in this Paragraph are hereby adopted as the requirements to be used under this Rule, except as otherwise provided in this Rule. Wherever the language of the portions of 40 CFR 51.166 referenced in this Paragraph speaks of the "plan," the requirements described therein shall apply to the source to which they pertain, except as otherwise provided in this Rule. Whenever the portions of 40 CFR 51.166 referenced in this Paragraph provide that the State plan may exempt or not apply certain requirements in certain circumstances, those exemptions and provisions of

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

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

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

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

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

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

(k) A permit application subject to this Rule shall be processed in accordance with the procedures and requirements of 40 CFR 51.166(q). Within 30 days of receipt of the application, applicants shall be notified if the application is complete as to initial information submitted. Commencement of construction before full prevention of significant deterioration approval is obtained constitutes a violation of this Rule.

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

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

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

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

The owner or operator shall make the information documented and maintained under this Paragraph available to the Director or the general public pursuant to the requirements in 40 CFR 70.4(b)(3)(viii).

(n) The references to the Code of Federal Regulations (CFR) in this Rule are incorporated by reference unless a specific reference states otherwise. The version of the CFR incorporated in this Rule is that ~~published in the Federal Register June 3, 2010 and effective August 2, 2010~~ as of July 20, 2011 and does not include any subsequent amendments or editions to the referenced material. This Rule is applicable ~~as of its effective date~~ in accordance with 40 CFR 51.166(b)(48) and (b)(49)(iv) and (v).

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

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**APPROVED RULES**

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*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 December 15, 2011.*

**REGISTER CITATION TO THE  
NOTICE OF TEXT****MENTAL HEALTH, COMMISSION FOR**

<u>Requirements for Transmission of Data</u>	10A	NCAC	26E	.0603*	25:24	NCR
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**WILDLIFE RESOURCES COMMISSION**

<u>Wildlife Taken for Depredations or Accidentally</u>	15A	NCAC	10B	.0106*	26:03	NCR
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<u>Dog Training and Field Trials</u>	15A	NCAC	10B	.0114*	26:03	NCR
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<u>Prohibited Taking and Manner of Take</u>	15A	NCAC	10B	.0201*	26:03	NCR
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<u>Bear</u>	15A	NCAC	10B	.0202*	26:03	NCR
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<u>Deer (White Tailed)</u>	15A	NCAC	10B	.0203*	26:03	NCR
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<u>Crows</u>	15A	NCAC	10B	.0215*	26:03	NCR
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<u>Falconry</u>	15A	NCAC	10B	.0216*	26:03	NCR
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<u>Coyote</u>	15A	NCAC	10B	.0219*	26:03	NCR
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<u>Public Mountain Trout Waters</u>	15A	NCAC	10C	.0205*	26:03	NCR
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<u>Open Seasons: Creel and Size Limits</u>	15A	NCAC	10C	.0305*	26:03	NCR
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<u>Open Seasons: Creel and Size Limits</u>	15A	NCAC	10C	.0305*	26:03	NCR
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<u>Manner of Taking Non-game Fishes: Purchase and Sale</u>	15A	NCAC	10C	.0401*	26:03	NCR
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<u>Special Device Fishing</u>	15A	NCAC	10C	.0404*	26:03	NCR
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<u>General Regulations Regarding Use</u>	15A	NCAC	10D	.0102*	26:03	NCR
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<u>Hunting On Game Lands</u>	15A	NCAC	10D	.0103*	26:03	NCR
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<u>Possession and Removal of Animals, Plants and Materials</u>	15A	NCAC	10D	.0105*	26:03	NCR
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<u>Use of Areas Regulated</u>	15A	NCAC	10E	.0104*	26:03	NCR
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<u>Hyde County</u>	15A	NCAC	10F	.0313*	26:03	NCR
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<u>Davidson County</u>	15A	NCAC	10F	.0324*	26:03	NCR
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<u>Definitions</u>	15A	NCAC	10H	.0801*	26:03	NCR
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<u>Permit and License Requirements</u>	15A	NCAC	10H	.0802*	26:03	NCR
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<u>Application for License Requirements</u>	15A	NCAC	10H	.0803*	26:03	NCR
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<u>Examination</u>	15A	NCAC	10H	.0804*	26:03	NCR
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<u>Duration of License</u>	15A	NCAC	10H	.0805	26:03	NCR
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<u>Acquisition, Sale and Status Change</u>	15A	NCAC	10H	.0806*	26:03	NCR
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<u>Levels of Licenses</u>	15A	NCAC	10H	.0807*	26:03	NCR
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<u>Facilities and Equipment</u>	15A	NCAC	10H	.0808*	26:03	NCR
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<u>Marking</u>	15A	NCAC	10H	.0809*	26:03	NCR
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<u>Taking Raptors</u>	15A	NCAC	10H	.0810*	26:03	NCR
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<u>Other Restrictions and Conditions</u>	15A	NCAC	10H	.0811*	26:03	NCR
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<u>Interstate Transportation</u>	15A	NCAC	10H	.0812*	26:03	NCR
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<u>Raptor Propagation Permit</u>	15A	NCAC	10H	.0813	26:03	NCR
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<u>Release of Raptors or Moved to Other Permit</u>	15A	NCAC	10H	.0814	26:03	NCR
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**APPROVED RULES**

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<u>Other Uses and Allowed Activities</u>	15A	NCAC	10H	.0815	26:03	NCR
<u>Protection of Endangered/Threatened/Special Concern</u>	15A	NCAC	10I	.0102*	26:03	NCR
<u>General Regulations Regarding Use of Conservation...</u>	15A	NCAC	10J	.0102*	26:03	NCR

**COSMETIC ART EXAMINERS, BOARD OF**

<u>Scope</u>	21	NCAC	14T	.0101*	26:04	NCR
<u>New School Applications</u>	21	NCAC	14T	.0102*	26:04	NCR
<u>All Cosmetic Art Schools</u>	21	NCAC	14T	.0201*	26:04	NCR
<u>Cosmetology Schools</u>	21	NCAC	14T	.0202*	26:04	NCR
<u>Esthetics Schools</u>	21	NCAC	14T	.0203*	26:04	NCR
<u>Manicuring Schools</u>	21	NCAC	14T	.0204*	26:04	NCR
<u>Natural Hair Care Schools</u>	21	NCAC	14T	.0205*	26:04	NCR
<u>Equipment for All Cosmetic Art Schools</u>	21	NCAC	14T	.0301*	26:04	NCR
<u>Equipment for Cosmetology Schools</u>	21	NCAC	14T	.0302*	26:04	NCR
<u>Equipment for Esthetics Schools</u>	21	NCAC	14T	.0303*	26:04	NCR
<u>Equipment for Manicuring Schools</u>	21	NCAC	14T	.0304*	26:04	NCR
<u>Equipment for Natural Hair Care Styling Schools</u>	21	NCAC	14T	.0305*	26:04	NCR
<u>Cosmetology and Apprentice Student Equipment</u>	21	NCAC	14T	.0401*	26:04	NCR
<u>Esthetics Student Equipment</u>	21	NCAC	14T	.0402*	26:04	NCR
<u>Manicuring Student Equipment</u>	21	NCAC	14T	.0403*	26:04	NCR
<u>Natural Hair Care Styling Student Equipment</u>	21	NCAC	14T	.0404*	26:04	NCR
<u>Submission of Records</u>	21	NCAC	14T	.0501*	26:04	NCR
<u>Permanent Records, Forms and Documentation</u>	21	NCAC	14T	.0502*	26:04	NCR
<u>Cosmetic Art Curriculum</u>	21	NCAC	14T	.0601*	26:04	NCR
<u>Cosmetology Curriculum</u>	21	NCAC	14T	.0602*	26:04	NCR
<u>Apprentice Cosmetology Curriculum</u>	21	NCAC	14T	.0603*	26:04	NCR
<u>Esthetics Curriculum</u>	21	NCAC	14T	.0604*	26:04	NCR
<u>Manicuring Curriculum</u>	21	NCAC	14T	.0605*	26:04	NCR
<u>Natural Hair Care Styling Curriculum</u>	21	NCAC	14T	.0606*	26:04	NCR
<u>Cosmetology Teacher Trainee Curriculum</u>	21	NCAC	14T	.0607*	26:04	NCR
<u>Esthetic Teacher Trainee Curriculum</u>	21	NCAC	14T	.0608*	26:04	NCR
<u>Manicurist Teacher Trainee Curriculum</u>	21	NCAC	14T	.0609*	26:04	NCR
<u>Natural Hair Care Teacher Curriculum</u>	21	NCAC	14T	.0610*	26:04	NCR
<u>Online Instruction</u>	21	NCAC	14T	.0611*	26:04	NCR
<u>Instruction Guidelines</u>	21	NCAC	14T	.0612*	26:04	NCR
<u>Uniforms and Identification</u>	21	NCAC	14T	.0613*	26:04	NCR
<u>Field Trips</u>	21	NCAC	14T	.0615*	26:04	NCR
<u>Additional Hours</u>	21	NCAC	14T	.0616*	26:04	NCR
<u>Teacher Trainees</u>	21	NCAC	14T	.0617*	26:04	NCR
<u>Transfer of Credit</u>	21	NCAC	14T	.0702*	26:04	NCR
<u>Expiration of Student Credit</u>	21	NCAC	14T	.0703*	26:04	NCR
<u>School Performance Requirements</u>	21	NCAC	14T	.0705*	26:04	NCR
<u>School Approval Changes and School Closing</u>	21	NCAC	14T	.0706*	26:04	NCR
<u>School Sanitation Grades</u>	21	NCAC	14T	.0802	26:04	NCR
<u>School Inspections</u>	21	NCAC	14T	.0803*	26:04	NCR
<u>School Probation</u>	21	NCAC	14T	.0901*	26:04	NCR

**MEDICAL BOARD**

<u>Application for Physician License</u>	21	NCAC	32B .1303*	n/a G.S. 150B 21.5(a)(5)
<u>Prerequisites for Incorporation</u>	21	NCAC	32C .0103*	25:22 NCR
<u>Certification of Registration</u>	21	NCAC	32C .0104*	25:22 NCR
<u>Documents</u>	21	NCAC	32C .0107*	25:22 NCR
<u>Fees</u>	21	NCAC	32C .0108*	25:22 NCR

**PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS FOR**

<u>Board Committees</u>	21	NCAC	50 .0107*	26:03 NCR
<u>Residential Fire Sprinkler Installation License</u>	21	NCAC	50 .0516*	26:03 NCR

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

**PLUMBING, HEATING AND FIRE SPRINKLER CONTRACTORS, BOARD OF EXAMINERS FOR**

<u>Qualifications Determined by Examination</u>	21	NCAC	50 .0301*	26:03 NCR
<u>Applications: Issuance of License</u>	21	NCAC	50 .0306*	26:03 NCR
<u>General Supervision and Standard of Competence</u>	21	NCAC	50 .0505*	26:03 NCR
<u>Continuing Education Requirements</u>	21	NCAC	50 .1401*	26:03 NCR

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

**10A NCAC 26E .0603 REQUIREMENTS FOR TRANSMISSION OF DATA**

(a) Each dispenser shall transmit to the Department the data as set forth in G.S. 90-113.73. The data shall be transmitted in the ASAP Telecommunication Format for Controlled Substances, published by the American Society for Automation in Pharmacy that is in use in the majority of states operating a controlled substance reporting system.

(b) The dispenser shall transmit the data electronically unless the Department approves a request for submission on paper as set forth in Paragraphs (e) and (f) of this Rule.

(c) The dispenser's electronic transfer data equipment including hardware, software and internet connections shall be in compliance with the Health Insurance Portability and Accountability Act as set forth in 45 CFR, Part 164.

(d) Each electronic transmission shall meet data protection requirements as follows:

- (1) Data shall be at least 128B encryption in transmission and at rest; or
- (2) Data shall be transmitted via secure file transfer protocol. Once received, data at rest shall be encrypted.

(e) The data may be submitted on paper if the dispenser submits a written request to the Department and receives prior approval.

(f) The Department shall consider the following in granting approval of the request:

- (1) The dispenser does not have a computerized record keeping system; or

- (2) The dispenser is unable to conform to the submission format required by the database administrator without incurring expenses over three thousand dollars (\$3,000).

(g) The dispenser shall report the data pursuant to the requirements of G.S. 90-113.73(a).

*History Note: Authority G.S. 90-113.70; 90-113.73; 90-113.76;*

*Temporary Adoption Eff. January 1, 2007;*

*Eff. April 1, 2007;*

*Amended Eff. January 1, 2012.*

**TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

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

(a) Depredation Permit:

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



- state wildlife enforcement officer, who, upon verification of the report, may take or remove the specimen as provided by 15A NCAC 10I .0102.
- (2) **Other Wildlife Species.** Except as provided in Subparagraph (1) of this Paragraph, the Executive Director or an agent of the Wildlife Resources Commission may, upon application of a landholder and after such investigation of the circumstances as he may require, issue a permit to such landholder to take any species of wildlife which is or has been damaging or destroying his property provided there is evidence of property damage in excess of fifty dollars (\$50.00). No permit may be issued for the taking of any migratory birds and other federally protected animals unless a corresponding valid U.S. Fish and Wildlife Service depredation permit, 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 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 taxidermist for preparation. The 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 feral swine 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.

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

*Eff. February 1, 1976;*

*Amended Eff. January 1, 2012; August 1 2010; July 1, 2010; May 1, 2008; August 1, 2002; July 1, 1997; July 1, 1995; January 1, 1995; January 1, 1992; August 1, 1990.*

#### **15A NCAC 10B .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 the 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 rules 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 the 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.

*History Note: Authority G.S. 113-134; 113-273; 113-276; 113-291.1; 113-291.5; 50 C.F.R. 21.13;*  
*Eff. February 1, 1976;*  
*Amended Eff. January 1, 2012; May 1, 2006; July 1, 1995; July 1, 1994; July 1, 1991; May 1, 1990.*

**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 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 are lawful methods of take; and
- (2) Migratory game birds may not be taken.

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

- (1) Only falconry and dogs used in conjunction with falconry are lawful methods of take; and
- (2) Migratory game birds may not be taken.

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 this Subchapter, the local law shall prevail.

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

*Eff. February 1, 1976;*

*Amended Eff. August 1, 2012; July 10, 2010; July 1, 1996; July 1, 1987.*

**15A NCAC 10B .0202 BEAR**

(a) Open Seasons for hunting 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.
- (2) Second Monday in November to January 1 in all of Bladen, Carteret, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender and Sampson counties.
- (3) First Monday in December to the third Saturday thereafter in Brunswick and Columbus counties.
- (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, Washington, Wayne, Wilson and Yadkin counties.
- (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.

(b) No Open Season. There is no open season in any area not included in Paragraph (a) of this Rule or in those parts of counties included in the following posted bear sanctuaries:

Avery, Burke and Caldwell counties--Daniel Boone bear sanctuary except by permit only  
 Beaufort, Bertie and Washington counties--Bachelor Bay bear sanctuary  
 Beaufort and Pamlico counties--Gum Swamp bear sanctuary  
 Bladen County--Suggs Mill Pond bear sanctuary  
 Brunswick County--Green Swamp bear sanctuary  
 Buncombe, Haywood, Henderson and Transylvania counties--Pisgah bear sanctuary  
 Carteret, Craven and Jones counties--Croatan bear sanctuary  
 Clay County--Fires Creek bear sanctuary  
 Columbus County--Columbus County bear sanctuary  
 Currituck County--North River bear sanctuary  
 Dare County--Bombing Range bear sanctuary except by permit only  
 Haywood County--Harmon Den bear sanctuary  
 Haywood County--Sherwood bear sanctuary  
 Hyde County--Gull Rock bear sanctuary  
 Hyde County--Pungo River bear sanctuary

Jackson County--Panthertown-Bonas Defeat bear sanctuary

Macon County--Standing Indian bear sanctuary

Macon County--Wayah bear sanctuary

Madison County--Rich Mountain bear sanctuary

McDowell and Yancey counties--Mt. Mitchell bear sanctuary except by permit only

Mitchell and Yancey counties--Flat Top bear sanctuary

Wilkes County--Thurmond Chatham bear sanctuary

(c) Bag limits shall be:

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

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

*History Note: Authority G.S. 113-134; 113-291.2; 113-291.7; 113-305;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. July 1, 2000;*

*Temporary Amendment Eff. July 1, 2002;*

*Amendment Eff. August 1, 2002;*

*Temporary Amendment Eff. September 1, 2003;*

*Temporary Amendment Expired Eff. December 27, 2003;*

*Amended Eff. August 1, 2012; August 1, 2010; May 1, 2009;*

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

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

(a) Open Seasons (All Lawful Weapons) for hunting deer:

- (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 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, 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) for hunting deer:
- (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, 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, 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) for hunting deer:

- (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, 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, 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).

(d) Open Season (Urban Season) for hunting deer:

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

*History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996, July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. July 1, 2002; July 1, 2001;*  
*Amended Eff. August 1, 2002 (Approved by RRC on 06/21/01 and 04/18/02);*  
*Temporary Amendment Eff. June 1, 2003;*  
*Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003);*  
*Amended Eff. August 1, 2012; August 1, 2011; July 10, 2010; June 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

**15A NCAC 10B .0215 CROWS**

(a) Open seasons for hunting crows are as follows: 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) There are no bag limit restrictions on crows.

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

*History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 50 C.F.R. 20.133;*

*Eff. February 1, 1976;*

*Amended Eff. May 1, 2009; May 1, 2006; June 1, 2005; July 1, 1991; July 1, 1987; July 1, 1984; July 1, 1983;*

*Temporary Amendment Eff. October 1, 2011;*

*Amended Eff. January 1, 2012.*

#### **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 coincides 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 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 the raptor shall not take the dead wildlife into his possession but shall leave the same where it lies, provided that the raptor may be allowed to feed on the 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 rabbits is 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 are three rabbits daily, and a possession limit of six.

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

*Eff. September 1, 1979;*

*Amended Eff. August 1, 2012; May 1, 2008; July 1, 1998.*

#### **15A NCAC 10B .0219 COYOTE**

(a) There is no closed season for taking coyotes by hunting.

(b) There are no bag limit restrictions on coyotes.

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

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

*Eff. July 1, 1993;*

*Temporary Amendment Eff. October 1, 2011;*

*Amended Eff. January 1, 2012.*

#### **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.]
- (C) Avery County:  
Nolichucky River (not trout waters)  
North Toe River – upper (Watauga Street to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespass)  
North Toe River – lower (SR 1164 to Mitchell County line, except where posted against trespass)  
Squirrel Creek  
Elk River (SR 1305 crossing immediately upstream of Big Falls to the Tennessee State line, including portions of tributaries on game lands)  
Wildcat Lake  
Catawba River (not trout water)  
Johns River (not trout water)  
Wilson Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule.]  
Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (a)(4) of this Rule.]  
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]

- (D) Milltimber Creek  
 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)
- (F) 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)
- 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  
French Broad River (not trout water)  
Cane Creek (SR 1551 bridge to US 25 bridge)  
Mud Creek (not trout water)  
Clear Creek (SR 1591 bridge at Jack Mountain Lane to SR 1582)  
Mills River (not trout water)  
North Fork Mills River (game lands portion below the Hendersonville watershed dam). [Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.]

(L) Jackson County:

Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1534 bridge at Wilmot) [Delayed Harvest Regulations apply to that portion between 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)

Max Patch Pond

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

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

Spillcorn Creek (entire stream, excluding tributaries)

Shelton Laurel Creek (confluence of Big Creek and Mill Creek to NC 208 bridge at Belva)

Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek) [Delayed Harvest Regulations apply. See

- Subparagraph (a)(5) of this Rule.]  
Puncheon Fork (Hampton Creek to Big Laurel Creek)  
Big Pine Creek (SR 1151 bridge to French Broad River)  
Ivy Creek (not trout waters)  
Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)
- (O) McDowell County:  
Catawba River – 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)  
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 SR 1189 bridge) [Delayed Harvest Regulations apply to that portion from NC 226 bridge to SR 1189 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:  
(Rocky) Broad River (Henderson County line to US 64/74 bridge, except where posted against trespass)
- (S) Stokes County:  
Dan River (Virginia State line downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:  
Yadkin River (not trout water)  
Ararat River (SR 1727 bridge downstream to the NC 103 bridge)  
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 (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 (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) (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 classified otherwise in Subparagraph (a)(1) of this Rule. The trout waters listed in this Subparagraph are also classified as Wild Trout Waters.
- (A) Alleghany County:  
Big Sandy Creek (portion on Stone Mountain State Park)  
Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:  
Big Horse Creek (Virginia State Line to Mud Creek at SR 1363) [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]  
Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Land) [Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.]
- (C) Avery County:  
Birchfield Creek (entire stream)  
Cow Camp Creek (entire stream)  
Cranberry Creek (headwaters to US 19E/NC 194 bridge)  
Elk River (portion on Lees-McRae College property, excluding the millpond) [Catch and Release/Artificial Flies Only Regulations apply. See Subparagraph (a)(4) of this Rule.]  
Gragg Prong (entire stream)  
Horse Creek (entire stream)  
Jones Creek (entire stream)  
Kentucky Creek (entire stream)  
North Harper Creek (entire stream)  
Plumtree Creek (entire stream)  
Roaring Creek (entire stream)  
Rockhouse Creek (entire stream)  
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.]  
Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]  
North Shoal Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters Regulations apply. See Subparagraph (a)(6) of this Rule.]
- (H) Graham County:  
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.]
- (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 and Powder Horn Mountain developments, including tributaries. Anglers fishing the upper section of Laurel Creek must check in at the 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 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. 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)
  - (B) Ashe County:  
Trout Lake  
Helton Creek (Virginia state line to New River)  
Big Horse Creek (SR 1324 bridge to North Fork New River)
  - (C) Burke County:  
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)

- (D) Caldwell County:  
Wilson Creek (game lands portion downstream of Lost Cove Creek to Phillips Branch)
  - (E) Haywood County:  
West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
  - (F) Henderson County:  
North Fork Mills River (game land portion below the Hendersonville watershed dam)
  - (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)
  - (H) Macon County:  
Nantahala River (Whiteoak Creek to the Nantahala hydropower discharge canal)
  - (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)
  - (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)
  - (K) Mitchell County:  
Cane Creek (NC 226 bridge to SR 1189 bridge)  
North Toe River (US 19E bridge to NC 226 bridge)
  - (L) Polk County:  
Green River (Fishtop Falls Access Area to confluence with Cove Creek)
  - (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)
  - (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)
  - (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
  - (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 (Glennville Reservoir pipeline to mouth)

- (E) West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)  
 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. There are no bait restrictions and 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 from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits

and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0104(b)(1)].

- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (a)(3), (a)(4), and (a)(6) of this Rule, the following rules apply to fishing in wild trout waters.
- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.
- (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

*History Note: Authority G.S. 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 6/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17 2003); Amended Eff. August 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

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

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

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout	4	7 in.	ALL YEAR
Waters			(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. (8))	None (exc. (8))	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5 (exc. (18))	14 in. (excs. (7),(9)&(18))	ALL YEAR (exc. (15))
Smallmouth and Spotted	5 (exc. (18))	12 in. (excs. (7),(9)&(18))	ALL YEAR
Roanoke and Rock Bass	None (exc. (20))	None (exc. (20))	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	(exc. (17))	(exc. (17))	(exc. (17))
Flounder	(exc. (17))	(exc. (17))	(exc. (17))
Red drum (channel bass, red fish, puppy drum)	(exc. (17))	(exc. (17))	(exc. (17))
Striped Bass and their hybrids	8 aggregate  (excs. (1),(2),(5), (6),(10)&(12))	16 in.  (excs. (1),(2),(5), (6),(10)&(12))	ALL YEAR  (excs. (6),(12)&(13))
(Morone Hybrids)			
Shad: (American and hickory)	10 aggregate (exc. (19))	None	ALL YEAR (exc. (16))
Kokanee Salmon	7	None	ALL YEAR
Crappie and sunfish	None (excs. (4),(11)&(14))	None (exc. (11))	ALL YEAR (exc. (4))

(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

- (3) 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, 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) 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, 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.
- (8) 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.
- (9) The minimum size limit for all black bass, with no exception, is 18 inches in Lake Thom-A-Lex in Davidson County.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) In Sutton Lake, no largemouth bass shall be possessed from December 1 through March 31.
- (16) The season for taking American and hickory shad with bow nets is March 1 through April 30.
- (17) 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.
- (18) 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.
- (19) 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.
- (20) In all public fishing waters east of Interstate 77, the minimum length for Roanoke and rock bass is 8 inches and the daily creel limit is two fish in aggregate.

*History Note:* Authority G.S. 113-134; 113-292; 113-304; 113-305;

*Eff. February 1, 1976;*

*Temporary Amendment Eff. May 10, 1990, for a period of 180 days to expire on November 1, 1990;*

*Temporary Amendment Eff. May 22, 1990, for a period of 168 days to expire on November 1, 1990;*

*Temporary Amendment Eff. May 1, 1991, for a period of 180 days to expire on November 1, 1991;*

*Amended Eff. July 1, 1994; July 1, 1993; October 1, 1992;*

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

*Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995;*

*Temporary Amendment Eff. November 1, 1998;*

*Amended Eff. April 1, 1999;*

*Temporary Amendment Eff. July 1, 1999;*

*Amended Eff. July 1, 2000;*

*Temporary Amendment Eff. July 1, 2001;*

*Temporary Amendment Eff. March 8, 2002 [This rule replaces the rule proposed for permanent amendment effective July 1, 2002 and approved by RRC in May 2001];*

*Amended Eff. August 1, 2002 (approved by RRC in April 2002);*

*Temporary Amendment Eff. June 1, 2003;*

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

*Amended Eff. March 1, 2012; 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 .0305 OPEN SEASONS: CREEL AND SIZE LIMITS

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

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



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**APPROVED RULES**

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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
Pickarel: Chain and Redfin	None	None	ALL YEAR
Walleye	8 (exc. (8))	None (exc. (8))	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5	14 in.	ALL YEAR
Smallmouth and Spotted	(excs. (18)&(21))	(excs. (7),(9),(18)&(21))	(exc. (15))
Roanoke and Rock Bass	None (exc. (20))	None (exc. (20))	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	(exc. (17))	(exc. (17))	(exc. (17))
Flounder	(exc. (17))	(exc. (17))	(exc. (17))
Red drum (channel bass, red fish, puppy drum)	(exc. (17))	(exc. (17))	(exc. (17))
Striped Bass and their hybrids	8 aggregate  (excs. (1),(2),(5), (6),(10)&(12))	16 in.  (excs. (1),(2),(5), (6),(10)&(12))	ALL YEAR  (excs. (6),(12)&(13))
(Morone Hybrids)			
Shad: (American and hickory)	10 aggregate (exc. (19))	None	ALL YEAR (exc. (16))
Kokanee Salmon	7	None	ALL YEAR
Crappie and sunfish	None (excs. (4),(11)&(14))	None (exc. (11))	ALL YEAR (exc. (4))

(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, 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 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, 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) 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, 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 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 Randleman Reservoir only one largemouth bass greater than 20 inches may be possessed.
- (8) 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.
- (9) The minimum size limit for all black bass, with no exception, is 18 inches in Lake Thom-A-Lex in Davidson County.
- (10) 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.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) In Sutton Lake, no largemouth bass shall be possessed from December 1 through March 31.
- (16) The season for taking American and hickory shad with bow nets is March 1 through April 30.
- (17) 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.
- (18) 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.
- (19) In the inland waters of Roanoke 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.
- (20) 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.
- (21) 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.
- 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, 2012; March 1, 2012; 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, in all their tributaries, 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) 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, 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, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.*

#### **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 prohibited by Marine Fisheries Commission rules in 15A NCAC 03, bow and arrow may be used in joint 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.

*History Note: Authority G.S. 113-134; 113-272.2; 113-276; 113-292;*

*Eff. February 1, 1976;*

*Amended Eff. July 1, 1999; July 1, 1996; December 1, 1995; July 1, 1995; July 1, 1994; July 1, 1993;*

*Temporary Amendment Effective July 1, 2001;*

*Amended Eff. August 1, 2012; May 1, 2008; May 1, 2007; August 1, 2004; July 18, 2002.*

## **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. 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 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 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. Firearms and archery equipment may only be possessed on a game land during the open hunting seasons or hunting days for game birds or game animals, other than fox or coyote. Firearms and archery equipment may also be possessed if:

- (1) the device is cased or not immediately available for use;
- (2) the device is used by persons participating in field trials on field trial areas;
- (3) the device is used by persons on target shooting areas designated by the landowner;
- (4) the device is possessed in designated camping areas for defense of persons and property;

- (5) the device is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm on game lands at any time other than by deer hunters during the special bow and arrow and muzzle-loading firearms deer hunting season, except under conditions authorized in G.S. 113-291.1(k), and by individuals training dogs during closed season without field trial 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 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, archery equipment as defined in 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 one hundred dollars (\$100.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of twenty-five dollars (\$25.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Laurinburg Fox Trial or the Sandhills Field Trial grounds without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the approval so obtained. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Dogs may not be trained

or permitted to run unleashed from March 15 through June 15 on any game land located east of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts. A field trial shall be authorized when such field trial does not conflict with other planned activities on the Game Land or field trial facilities and the applying organization can demonstrate their experience and expertise in conducting genuine field trial activities. Entry to physical facilities, other than by field trial organizations under permit, shall be granted when they do not conflict with other planned activities previously approved by the Commission and they do not conflict with the primary goals of the agency.

(f) Trapping. Subject to the restrictions contained in 15A NCAC 10B .0110, .0302 and .0303, trapping of furbearing animals is permitted on game lands during the applicable open seasons, except that trapping is prohibited:

- (1) on the field trial course of the Sandhills Game Land;
- (2) on the Harmon Den and Sherwood bear sanctuaries in Haywood County;
- (3) in posted "safety zones" located on any game land;
- (4) by the use of bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
- (5) on the John's River Waterfowl Refuge in Burke County; and
- (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 companion 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.

*History Note: Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1993; April 1, 1992;*  
*Temporary Amendment Eff. October 11, 1993;*  
*Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. August 31, 2001;*  
*Amended Eff. August 1, 2002;*  
*Amended Eff. June 1, 2004; (this amendment replaces the amendment approved by RRC on July 17, 2003);*  
*Amended Eff. January 1, 2012; June 1, 2011; August 1, 2010;*  
*May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006;*  
*November 1, 2005.*

### **15A NCAC 10D .0103 HUNTING ON GAME LANDS**

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



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

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

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

(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, 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. Feral Swine 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.

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| <p>(15) Cape Fear River Wetlands Game Land in Pender County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.</p> <p>(D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road and south of NC 210 to the Black River.</p> <p>(16) Carteret County Game Land in Carteret County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) The use of dogs for hunting deer is prohibited.</p> <p>(17) R. Wayne Bailey-Caswell Game Land in Caswell County</p> <p>(A) Three 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 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.</p> <p>(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.</p> <p>(E) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.</p> <p>(F) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to</p> | <p>September 1 through the last day of February and April 7 through May 14.</p> <p>(18) Catawba Game Land in Catawba County</p> <p>(A) Three 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) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.</p> <p>(19) Chatham Game Land in Chatham County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Wild turkey hunting is by permit only.</p> <p>(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.</p> <p>(E) Target shooting is prohibited.</p> <p>(20) Cherokee 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>(21) Chowan Game Land in Chowan County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.</p> <p>(22) Chowan Swamp Game Land in Bertie, Gates and Hertford counties.</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) 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.</p> <p>(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.</p> |
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| <p>(23) Cold Mountain Game Land in Haywood County</p> <p>(A) Six Days per Week Area</p> <p>(B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.</p> <p>(C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.</p> <p>(24) Columbus County Game Land in Columbus 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>(25) Croatan Game Land in Carteret, Craven and Jones counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Waterfowl shall be taken only on the following days:</p> <p style="padding-left: 20px;">(i) the opening and closing days of the applicable waterfowl seasons;</p> <p style="padding-left: 20px;">(ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and</p> <p style="padding-left: 20px;">(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.</p> <p>(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.</p> <p>(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.</p> <p>(26) Currituck Banks Game Land in Currituck County</p> <p>(A) Six Days per Week Area</p> <p>(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.</p> <p>(C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.</p> | <p>(D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.</p> <p>(E) Dogs are allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.</p> <p>(F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.</p> <p>(G) Deer of either sex may be taken all the days of the applicable deer with visible antlers season.</p> <p>(27) Dare Game Land in Dare 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) No hunting is allowed on posted parts of bombing range.</p> <p>(D) The use and training of dogs is prohibited from March 1 through June 30.</p> <p>(28) Dover Bay Game Land in Craven County</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the days of the applicable deer with visible antlers season.</p> <p>(29) Dupont State Forest Game Lands in Henderson and Transylvania counties</p> <p>(A) Hunting is by Permit only.</p> <p>(B) The training and use of dogs for hunting is prohibited except by special hunt permit holders during scheduled permit hunts.</p> <p>(30) Elk Knob Game Land in Watauga 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>(31) Embro Game Land in Halifax and Warren counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Horseback riding is prohibited.</p> <p>(32) Goose Creek Game Land in Beaufort and Pamlico counties</p> <p>(A) Six Days per Week Area</p> <p>(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.</p> <p>(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:</p> |
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- (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;
    - (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) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season, except for that portion designated as bear sanctuary.
- (36) Harris Game Land in Chatham, Harnett and Wake counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
  - (C) Waterfowl shall be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
  - (D) The use or construction of permanent hunting blinds shall be prohibited.
  - (E) Wild turkey hunting is by permit only.
  - (F) Target shooting is prohibited.
- (37) Holly Shelter Game Land in Pender County
  - (A) Three Days per Week Area.
  - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
  - (C) Waterfowl may be taken only on the following days:
    - (i) the opening and closing days of the applicable waterfowl seasons;
    - (ii) Thanksgiving, Christmas, New Year's and Martin Luther King, Jr. Days; and
    - (iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
  - (D) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both

- designated and posted as camping areas.
- (E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only.
- (F) The use of dogs for hunting deer and bear is prohibited on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road.
- (G) Hunting and vehicular access on the Pender 4 Tract is restricted from September 1 to the last day of February and April 1 to May 15 to individuals that possess valid hunting opportunity permits, unless otherwise authorized by the Wildlife Resources Commission.
- (H) Hunters who possess a Disabled Access Permit may operate an All Terrain Vehicle on and within 100 yards of trails designated for Disabled Sportsman Access.
- (38) Hyco Game land in Person County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Target shooting is prohibited.
- (39) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- (40) Johns River Game Land in Burke County
- (A) Hunting is by permit only.
- (B) During permitted deer hunts deer of either-sex may be taken by permit holders.
- (C) Entry on posted waterfowl impoundments is prohibited October 1 through March 31 except by lawful waterfowl hunting permit holders and only on those days written on the permits.
- (D) The use or construction of permanent hunting blinds is prohibited.
- (41) Jordan Game Land in Chatham, Durham, Orange and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
- (D) Horseback riding is prohibited except on those areas posted as American Tobacco Trail and other areas posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July and August, and on Sundays the remainder of the year except during open turkey and deer seasons.
- (E) Target shooting is prohibited.
- (F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.
- (G) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.
- (42) Juniper Creek Game Land in Brunswick and Columbus counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the Deer With Visible Antlers Season.
- (C) Camping is restricted to September 1 through the last day of February and April 7 through May 14 in areas both designated and posted as camping areas.
- (43) Kerr Scott Game Land in Wilkes County
- (A) Six Days per Week Area
- (B) Use of centerfire rifles is prohibited.
- (C) Use of muzzleloaders, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season is 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 prohibited from September 1 through May 15.
- (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
- (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 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.  
(C) Use of centerfire rifles is prohibited in that portion in Anson and Richmond counties North of US-74.  
(D) Target shooting is prohibited.
- (59) Perkins Game Land in Davie County  
(A) Three Days per Week Area  
(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (60) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties  
(A) Six Days per Week Area  
(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.  
(C) Horseback riding is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).
- (61) Pond Mountain Game Land in Ashe County  
(A) Six Days per Week Area  
(B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.  
(C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
- (D) Deer and bear hunting is by permit only.
- (62) Pungo River Game Land in Hyde County  
(A) Six Days per Week Area  
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (63) Rhodes Pond Game Land in Cumberland and Harnett counties  
(A) Hunting is by permit only.  
(B) Swimming is prohibited on the area.
- (64) Roanoke River Wetlands in Bertie, Halifax, Martin and Northampton counties  
(A) Hunting is by Permit only.  
(B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.  
(C) Camping is restricted to September 1 through February 28 and April 7 through May 14 in areas both designated and posted as camping areas, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.
- (65) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- (66) Robeson Game Land in Robeson County  
(A) Three Days per Week Area  
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (67) Rockfish Creek Game Land in Hoke County  
(A) Three Days per Week Area  
(B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving.  
(C) Deer of either sex may be taken with muzzle-loading firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter.  
(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.  
(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.



- (F) The use of dogs for hunting deer is prohibited.
- (G) Wild turkey hunting is by permit only.
- (H) Taking fox squirrels is prohibited.
- (68) Rocky Run Game Land in Onslow County: Hunting is by permit only.
- (69) Sampson Game Land in Sampson County
  - (A) Three Days per Week Area
  - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (70) Sandhills Game Land in Hoke, Moore, Richmond and Scotland counties
  - (A) Three Days per Week Area
  - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, the Deer with Visible antlers season, and from the third Monday after Thanksgiving through January 1, except on the field trial grounds. 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, during the Deer With Visible Antlers season, and from the third Monday after Thanksgiving through January 1, except on the field trial grounds.
  - (C) Either-sex deer hunting during the Deer With Visible Antlers Season is by permit only. 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 is 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:
  - (i) In Richmond County: that part east of US 1;
  - (ii) 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.
  - (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.
  - (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:
- (1) Bertie, Halifax and Martin counties—Roanoke River Wetlands,
  - (2) Bertie County—Roanoke River National Wildlife Refuge,
  - (3) Bladen County—Suggs Mill Pond Game Lands,
  - (4) Burke County—John's River Waterfowl Refuge,
  - (5) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting),

- (6) Dare County—Roanoke Sound Marshes Game Lands, and
- (7) 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. Written permission will be granted only when entry onto the Waterfowl Refuge will not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the 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.

(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. 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 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 shall be stated on each permit.

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

*History Note: Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305;*  
*Eff. February 1, 1976;*  
*Temporary Amendment Eff. October 3, 1991;*  
*Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996;*  
*September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;*  
*Temporary Amendment Eff. October 1, 1999; July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. July 1, 2002; July 1, 2001;*  
*Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02);*  
*Temporary Amendment Eff. June 1, 2003;*  
*Amended Eff. June 1, 2004 (this replaces the amendment approved by RRC on July 17, 2003);*  
*Amended Eff. August 1, 2012; August 1, 2011; August 1, 2010;*  
*May 1, 2009; May 1, 2008; May 1, 2007; October 1, 2006;*  
*August 1, 2006; May 1, 2006; February 1, 2006; June 1, 2005;*  
*October 1, 2004.*

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

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

- (1) "Other materials" includes: 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:

- (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; or
  - (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.
- (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) Minimal amounts of animal parts, plant parts not removed from live plants, and other materials collected by hand and removed from Commission lands without written permission, except in violation of 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. For purposes of this Subparagraph, "minimal amounts," are quantities that fit within a cubic foot of space, except for firewood to be used at designated game land campgrounds. Minimal amounts of firewood are quantities sufficient to build and maintain a fire for the duration of the game land user's stay at the campground.
  - (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;
- (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.
  - (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.

*History Note: Authority G.S. 113-134; 113-264; 113-291; 113-291.2; 113-305; 113-333;  
Eff. August 1, 2012.*

**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, 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:

- (1) Bladen Lakes State Forest
- (2) Buckhorn
- (3) Butner-Falls of Neuse
- (4) Chatham
- (5) DuPont State Forest
- (6) Harris
- (7) Hyco
- (8) Jordan
- (9) Kerr Scott
- (10) Lee
- (11) Mayo
- (12) Pee Dee River north of U.S 74
- (13) Sutton Lake
- (14) Vance
- (15) the 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 full, 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 means 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 (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) 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. Written authorization will only be granted to persons acting on behalf of the Commission, to persons conducting scientific investigations or surveys, and for release of rehabilitated wildlife. Written authorization will not be granted for any feeding or release that is inimical to the conservation of native wildlife resources. For the purpose of enforcing this Paragraph, "domesticated animals" does not include pets under the control of the owner and raptors or hunting dogs where otherwise permitted for hunting or training purposes.

*History Note: Authority G.S. 75A-14; 113-134; 113-264; Eff. February 1, 1976; Amended Eff. August 1, 2012; August 1, 2010; May 1, 2009; July 1, 1995; February 1, 1994; September 1, 1992; July 1, 1991.*

#### 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 point at 35.39758 N, 76.33312 W in Swanquarter Bay and extending the entire length of the canal;
- (2) Carawan Canal near the Town of Swan Quarter beginning at its entrance at a point at 35.40215 N, 76.34033 W in Swanquarter Bay 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) That portion of Far Creek in the Town of Engelhard shore to shore, beginning at a point at 35.51061 N, 75.98699 W and ending at the Roper Lane bridge at 35.50869 N, 76.00229 W;
- (5) Fodrey Canal. That portion of Fodrey Canal shore to shore, beginning in Swanquarter Bay at a point at 35.40345 N, 76.34175 W and extending inland 300 yards ending at a point at 35.40469 N, 76.33944 W;
- (6) Silver Lake in Ocracoke. Harbor-wide;
- (7) The entire waters of the Hydeland Canal beginning at the Hydeland Canal Access Area (35.42131 N, 76.20915 W) and ending at the end of SR 1122 (35.40873 N, 76.21185 W);
- (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 N, 76.17359 W, and extending to a point in West Main Canal at, 35.45174 N, 76.18132 W, and that portion of Central Canal beginning at its intersection with Main Canal and extending northward to 35.45687 N, 76.1751 W.

(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.

*History Note: Authority G.S. 75A-3; 75A-15; Eff. February 1, 1976; Amended Eff. January 1, 2012; December 1, 2010; October 1, 1995; March 1, 1993; January 1, 1989; March 29, 1981.*

#### 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 on High Rock Lake.
- (3) within 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 apply.

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

*Eff. July 1, 1976;*

*Amended Eff. January 1, 2012; May 1, 2004; December 1, 1995; December 1, 1991; August 1, 1991; September 1, 1982.*

### **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 falconry permit or license issued by another state, tribe or territory 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) 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 Accipitriformes, 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.

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

*Eff. September 1, 1979;*

*Amended Eff. January 1, 2012; May 1, 2007; May 1, 1995; August 1, 1988; February 1, 1985.*

### **15A NCAC 10H .0802 PERMIT AND LICENSE REQUIREMENTS**

(a) No 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 from a state, tribe or territory which has been certified by the U.S. Fish and Wildlife Service as meeting federal falconry standards; and
- (2) a North Carolina falconry license as required by G.S. 113-270.3(b)(4), unless 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.

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

*Eff. September 1, 1979;*

*Amended Eff. January 1, 2012; July 1, 1998.*

### **15A NCAC 10H .0803 APPLICATION FOR LICENSE**

(a) Any individual 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 as described in Rule .0807 of this Section, 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.

(b) Individuals who have relocated to North Carolina have 60 days from the date of relocation to apply for a North Carolina falconry license. Until his or her license is granted, the individual may keep any lawfully obtained raptors in facilities described in Rule .0808 of this Section, and may practice falconry provided he or she has a permit or license from a state, tribe or territory that has been certified by the U.S. Fish and Wildlife Service.

(c) Apprentice license applications must include a letter from a sponsor as described in 50 CFR 21.29(c)(3)(i) which is hereby incorporated by reference, including subsequent amendments and editions.

(d) General license applications must include a letter from a General or Master falconer as described in 50 CFR 21.29(c)(3)(ii) which is hereby incorporated by reference, including subsequent amendments and editions.

(e) 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.

(f) A falconer with an expired license less than five years old may 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 may 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.

(g) Applications shall be accompanied by a fee in the amount of ten dollars (\$10.00).

*History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29; Eff. September 1, 1979; Amended Eff. January 1, 2012.*

#### **15A NCAC 10H .0804 EXAMINATION**

An applicant shall answer correctly at least 80 percent of the questions on a supervised examination administered by the Commission relating to basic biology, care, and handling of raptors, literature, laws, and regulations before the Commission grants a falconry license. The examination is not required of any applicant who holds a currently valid permit from another state, tribe or territory meeting the federal standards and which has been certified by the U.S. Fish and Wildlife Service. The cost for taking the exam is ten dollars (\$10.00).

*History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29; Eff. September 1, 1979; Amended Eff. January 1, 2012.*

#### **15A NCAC 10H .0805 DURATION OF LICENSE**

A falconry license or the renewal of such a license is valid when issued by the state and expires on June 30.

*History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; Eff. September 1, 1979; Amended Eff. January 1, 2012.*

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

(a) Sale, transfer, purchase and barter. A licensee may transfer a wild-caught raptor to another licensee if no money or other consideration is involved. A licensee may purchase, trade, sell or barter any lawfully possessed raptor that is bred in captivity under a federal raptor propagation permit and banded with a numbered seamless marker provided by the issuing office, provided:

- (1) the person receiving the 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

- (2) the licensee transferring such raptor has acquired it from a person authorized to possess it as provided by 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.

(c) A licensee 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 shall take possession 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.

*History Note: Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.28; 50 C.F.R. 21.29; Eff. September 1, 1979; Amended Eff. January 1, 2012; February 1, 1994; April 1, 1991; February 1, 1985.*

#### **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.

(b) Apprentice level falconry licenses are subject to the 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: The apprentice's sponsor 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 notification to the Commission when he decides to stop sponsoring an apprentice. The Commission shall notify the apprentice who must obtain another sponsor and so advise the Commission within 90 days. The apprentice's raptors shall be seized by the Commission and the permit revoked if after the 90 day period the apprentice fails to obtain another sponsor and to notify the Commission of the new sponsor. If after 180 days, the apprentice fails to obtain another sponsor and to notify the Commission of the same, he shall reapply and be reexamined prior to the reissuance of his license.

(c) General level falconry licenses are subject to the conditions, requirements and limitations set forth in 50 CFR 21.29(c)(3)(ii)



which is hereby incorporated by reference, including subsequent amendments and editions.

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

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

*Eff. September 1, 1979;*

*Amended Eff. January 1, 2012; May 1, 1995; May 1, 1991; February 1, 1985.*

**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, 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 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, the applicant shall have holding facilities meeting the following standards:

- (1) 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.
- (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, the mews must have a door that allows easy access and maintenance, and that shall close automatically or be securable inside and outside. Mews shall be located away from disturbance and shade shall be provided. The floor of the mews shall permit easy cleaning and shall be well drained. 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.
- (3) Outdoor Facilities (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, covers or roofs shall not be less than seven feet. The enclosed area shall be 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 allow for drainage to prevent standing water. Protection from sun, wind, and inclement weather shall be provided for the raptor. At least two perches shall be provided for 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.

(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, 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.

(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.

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

*Eff. September 1, 1979;*

*Amended Eff. January 1, 2012; May 1, 1995; April 1, 1991.*

**15A NCAC 10H .0809 MARKING**

(a) All peregrine falcons (*Falco peregrinus*), gryfalcons (*Falco rusticolus*), Harris's hawks (*Parabuteo unicinctus*) and goshawks removed from the wild or acquired from a falconer or rehabilitator for falconry purposes must be banded 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.

(c) Loss or removal of any band must be reported to the issuing office within five 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.

(d) No person shall counterfeit, alter, or deface any marker required by this Rule, except that 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 and receive 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.

*History Note: Authority G.S. 113-134; 1 113-270.3(b)(4); 50 C.F.R. 21.29;*

*Eff. September 1, 1979;*

*Amended Eff. January 1, 2012; April 1, 1991; July 1, 1988.*

#### **15A NCAC 10H .0810 TAKING RAPTORS**

(a) No raptor shall be taken from the wild in this state except by an individual holding a currently valid falconry license 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.

(b) All levels of licensees may take up to two raptors from the wild annually subject to the conditions and restrictions set forth in 50 CFR 21.29(e)(2)(i)-(viii) which is hereby incorporated by reference, including subsequent amendments and editions. Apprentices may 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. Only persons holding general or master level falconry licenses may take nestlings. Nestlings may only be taken from May 1 through June 30. No more than two nestlings may be taken by the same licensee. 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 through the last day of February, except that marked raptors may be retrapped at any time.
- (3) Only American kestrels (*Falco sparverius*) and great horned owls (*Bubo Virginianus*) may be taken when over one year old. 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 follow 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 passage 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 visible to 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 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 or any birds wearing falconry equipment 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.

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

*Eff. September 1, 1979;*

*Amended Eff. January 1, 2012; July 1, 1998.*

#### **15A NCAC 10H .0811 OTHER RESTRICTIONS AND CONDITIONS**

(a) Every falconer must carry his license on his 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.

(f) Feathers that are molted may be retained and exchanged by falconry licensees only for imping 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.

*History Note:* Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;  
*Eff. September 1, 1979;*  
*Amended Eff. January 1, 2012.*

**15A NCAC 10H .0812 INTERSTATE  
TRANSPORTATION**

(a) A nonresident of this state who holds a currently valid falconry permit from another state, tribe or territory which has been certified by the U.S. Fish and Wildlife Service 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 North Carolina resident who holds a falconry license issued by the commission may transport his raptors into or through other states, tribal lands and territories for use in falconry, provided all laws and regulations of such states governing the possession and transportation of raptors and the practice of falconry are observed.

*History Note:* Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;  
*Eff. September 1, 1979;*  
*Amended Eff. January 1, 2012.*

**15A NCAC 10H .0813 RAPTOR PROPAGATION  
PERMIT**

*History Note:* Authority G.S. 113-134; 113-270.3(b)(5); 50 C.F.R. 21.29;  
*Eff. February 1, 1994;*  
*Amended Eff. July 1, 1994;*  
*Repealed Eff. January 1, 2012.*

**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.

*History Note:* Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;  
*Eff. January 1, 2012.*

**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.

*History Note:* Authority G.S. 113-134; 113-270.3(b)(4); 50 C.F.R. 21.29;  
*Eff. January 1, 2012.*

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

(a) No Open Season. There is no open season for taking any of the species listed as endangered in Rule .0103, or threatened in Rule .0104 of this Section. Unless otherwise provided in North Carolina General Statutes or the rules of this Chapter, there is no open season for taking any of the species listed as special concern in Rule .0105 of this Section. 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:

- (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, possesses the requisite equipment and expertise to care for such specimen or 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 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.
- (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 labeled to indicate the state in which they were taken and the identity, address, and lawful authority of the processor or distributor;
  - (2) Raptors listed as special concern species in Rule .0105 of this Section 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 Section is allowed under permit by retail and wholesale establishments whose primary function is providing scientific supplies for research provided that:
    - (A) the specimens were lawfully obtained from captive or wild populations outside of North Carolina;
    - (B) they are possessed in indoor facilities;
    - (C) all transportation of specimens provides safeguards adequate to prevent accidental escape; and
    - (D) importation, possession and sale or transfer is permitted only as listed in Parts (e)(4)(A) and (B) of this Rule.
- (f) 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.
- (g) Purchase, importation, and possession of special concern species within North Carolina is allowed under permit to state and federal governmental agencies, corporate research entities, and research institutions provided that:
- (1) sales are permitted to out of state consumers;
  - (2) they must be possessed in indoor facilities and that all transportation of specimens provides safeguards adequate to prevent accidental escape;
  - (3) the agency's or institution's Animal Use and Care Committee has approved the research protocol for this species; and

- (4) no specimens may be stocked or released in the public or private waters or lands of North Carolina and may not be transferred to any private individual.

*History Note: Authority G.S. 113-134; 113-291.2; 113-291.3; 113-292; 113-333;*

*Eff. June 11, 1977;*

*Amended Eff. January 1, 2012; May 1, 2009; April 1, 2003; April 1, 2001; April 1, 1997; February 1, 1994; September 1, 1989; March 1, 1981; March 17, 1978.*

**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. 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 Firearms and archery equipment may only be possessed on a designated wildlife conservation area 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) the device is cased or not immediately available for use,
- (2) the device may be possessed in designated camping areas for defense of persons and property,
- (3) the device is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm 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 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 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, 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: all metals, minerals, rocks, soil, organic debris, buildings, fences, historic artifacts and water.

*History Note: Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 113-296; 113-297; Eff. February 1, 1990; Amended Eff. January 1, 2012; August 1, 2010; May 1, 2007; May 1, 2006; June 1, 2005.*

## **TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

### **CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS**

#### **21 NCAC 14T .0101 SCOPE**

(a) These Rules apply to existing and new schools as follows:

- (1) Rules in this Subchapter apply to all cosmetic art schools making initial application to operate a cosmetic art school after the effective date of these Rules.
- (2) Schools with a letter of approval dated prior to the effective date of the rules in this

Subchapter may choose to comply with Section .0100 and .0200, Rules .0302-.0305 of this Subchapter.

- (3) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter must comply with Rule .0301, Section .0400, Rules .0602-.0610, .0614, and .0615 of this Subchapter upon the enrollment of students after the effective date of these Rules.
- (4) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter must comply with Rules .0501, .0502, .0601, .0611-.0613, .0616-.0901 upon the effective date of the rules in this Subchapter.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS**

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina must make application for licensure and a letter of approval by submitting to the Board the Board's School Application. School applications must be submitted complete with:

- (1) Proof of bond as required by G.S. 88B-17;
- (2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room/dressing room, office areas, reception areas and restroom facilities;
- (3) Course curriculum for each cosmetic art discipline and teacher trainee program to be taught in the school;
- (4) Plans for record keeping of student hours, minimum course requirement qualifications, and student performances;
- (5) Evaluation plans for the assignment of performance services, the qualifications for passing a performance requirement and techniques for grading of performances;
- (6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan to assist students to achieve the required minimum hours and performances;
- (7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;
- (8) Documentation of local municipality electrical and plumbing approval; and
- (9) School operation schedule including days, hours and observed holidays.

(b) The Board shall not approve an application for a license until all plans, furniture, supplies and equipment as prescribed by the rules in this Subchapter have been installed.

(c) The Board shall issue a license to any cosmetic art school that meets the requirements of this Subchapter.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS**

(a) Cosmetic Art schools must have the following physical departments:

- (1) Beginner Department – a minimum of 200 square feet with a table or tables and or stands to accommodate at least 10 students and have at least 40 inches between each mannequin. Cosmetic art schools must provide an additional 5 square feet in the beginner department for each student over the maximum of 10. This area shall have at least one mirror of a minimum of two square feet. This area shall be dedicated to the instruction of beginner students;
- (2) Advanced Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
  - (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
  - (B) 24 inches from the center of the chair forward;
  - (C) 48 inches from the backrest behind the chair to any other styling chair, esthetics table or manicuring table; and
  - (D) at least 30 inches of space from the back of each styling chair, esthetics table or manicuring table to the wall of the shop.
- (3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures;
- (4) Theory classroom – classroom with a minimum of 300 square feet to accommodate a maximum of 25 students. Cosmetic art schools must provide an additional 8 square feet in the theory classroom for each student over the maximum of 25;
- (5) Office – administrative office for the secure/locked facilitation of student records and files. This office must be outfitted with a minimum of one desk and one chair;
- (6) Reception area – a reception area for clients to wait prior to receiving services;
- (7) Break room for student use;
- (8) Restrooms for student/public use;
- (9) Locker/dressing room – a locker or room for students to secure/lock personal belongings throughout the day; and

(10) All stations must be numbered numerically.

(b) Each cosmetic art school must display a sign in a conspicuous place in the reception area. The sign cannot be smaller than 12 inches by 18 inches, with lettering at least one and one half inches in size and must read as follows: "Cosmetic Art School Work Done Exclusively by Students."

(c) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom which may be located in an adjacent building or another building within 500 feet of the main cosmetic art building.

(d) All Cosmetic Art schools must post hours of operation per cosmetic art discipline and submit this information to the Board. Any changes to the hours of operation must be posted and submitted to the Board. A school will be considered open by the Board when cosmetic art instruction, services or performances are provided.

(e) Cosmetic art schools may not offer student hours or performances unless they are in compliance with Paragraph (a) of this Rule.

(f) All cosmetic art schools must adhere to any federal, state and local government regulation or ordinance regarding fire safety codes, plumbing and electrical work.

(g) All cosmetic art schools must maintain a ventilation system in good working order with temperature control. During school operating hours the temperature must be maintained between 60 and 85 degrees Fahrenheit.

(h) All equipment in cosmetic art schools shall be in working order; kept in safe repair; and installed in such a manner as to facilitate proper usage.

(i) All cosmetic art school buildings shall be maintained.

(j) All cosmetic art schools must maintain a bulletin board in plain sight of the clinic floor. The bulletin board shall be used to display at all times the Board sanitation rules and the sanitation grade card issued to the school.

(k) All cosmetic art schools must post together the school letter of approval, the school license and all cosmetic art licenses issued to the teachers on staff.

(l) Each room in a cosmetic art school must be labeled according to its assigned purpose.

(m) Each theory classroom shall be equipped with desks or chairs suitable for classroom work and one chair suitable for demonstrating cosmetic art practices.

(n) When a school and a shop are under the same ownership, separate operation of the shop and school shall be maintained and if the school and shop are located in the same building, separate entrances and visitor reception areas shall be maintained and the school and shop shall have separate public information releases, advertisements, names and advertising signs.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0202 COSMETOLOGY SCHOOLS**

Cosmetology Schools must have the following physical departments: Advanced Department - a minimum clinic floor of 1200 square feet which shall accommodate a maximum of 40 enrolled advanced students. All cosmetology schools must provide an additional 10 square feet on the clinic floor for each

enrolled advanced student over 40. Each side approach shampoo bowl must be at least 40 inches apart, center of bowl to center of bowl; free standing shampoo bowls must be at least 31 inches apart, center of bowl to center of bowl.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0203 ESTHETICS SCHOOLS**

Esthetics Schools must have the following physical departments: Advanced Department - a minimum clinic floor of 900 square feet which shall accommodate a maximum of 20 enrolled advanced students. Schools must provide an additional 7.5 square feet on the clinic floor for each enrolled advanced student over 20.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0204 MANICURING SCHOOLS**

Manicuring Schools must have the following physical departments: Advanced Department- a minimum clinic floor of 600 square feet which shall accommodate a maximum of 20 enrolled advanced students. Schools must provide an additional 5 square feet on the clinic floor for each enrolled advanced student over 20.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0205 NATURAL HAIR CARE SCHOOLS**

Natural Hair Care Styling Schools must have the following physical departments: Advanced Department - a minimum clinic floor of 900 square feet which shall accommodate a maximum of 20 enrolled advanced students. Schools must provide an additional 7.5 square feet on the clinic floor for each enrolled advanced student over 20.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0301 EQUIPMENT FOR ALL COSMETIC ART SCHOOLS**

All cosmetic art schools shall maintain for student use, in a dispensary, supplies for all cosmetic art services offered in the school.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0302 EQUIPMENT FOR COSMETOLOGY SCHOOLS**

(a) The beginner department in a cosmetology school must be equipped with the following equipment:

- (1) One manicure table and stool;
- (2) Two shampoo bowls and chairs. Each side approach shampoo bowl must be at least 40 inches apart, center of bowl to center of bowl,

free standing shampoo bowls must be at least 31 inches apart, center of bowl to center of bowl;

- (3) Thermal styling equipment for the purpose of curling and straightening the hair;
- (4) Visual aids;
- (5) One mannequin practice table/stand to accommodate each student enrolled in the beginner department; and
- (6) Five dozen cold wave rods for each student in the department.

(b) The advanced department in a cosmetology school must be equipped with the following equipment for up to 40 students in the department:

- (1) 20 stations: a station shall include one mirror, one electrical outlet and one hydraulic chair;
- (2) Six hooded floor type dryers and chairs;
- (3) Four shampoo bowls and chairs. Each side approach shampoo bowl must be at least 40 inches apart, center of bowl to center of bowl, free standing shampoo bowls must be at least 31 inches apart, center of bowl to center of bowl, all other types of shampoo bowls must be at least 31 inches apart, center of bowl to center of bowl;
- (4) Two manicure tables and stools;
- (5) One pedicure station: a pedicure station shall include a chair, a foot bath and a stool; and
- (6) One facial treatment table or chair and a stool.

(c) The advanced department in a cosmetology school must be equipped with the following equipment if there are more than 40 enrolled advanced students:

- (1) One station for each additional two students;
- (2) One hooded floor type dryer for each additional 10 students;
- (3) One shampoo bowl for each additional 10 students;
- (4) One manicure table and stool for each additional 15 students;
- (5) One pedicure station for each additional 20 students; and
- (6) One facial lounge or chair for each additional 40 students.

(d) Cosmetology schools that also offer the disciplines of esthetics, manicuring and natural hair care must be equipped with one additional station (as defined in this section per discipline) per five students and the equipment requirements specific to the discipline.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0303 EQUIPMENT FOR ESTHETICS SCHOOLS**

(a) The beginner department in an esthetics school must be equipped with the following equipment:

- (1) One mannequin practice table/stand to accommodate each student enrolled in the beginner department;



- (2) One sink with hot and cold running water.
- (b) The advanced department in an esthetics school shall be equipped with the following equipment for 1-40 students:
  - (1) Ten facial treatment chairs or treatment tables;
  - (2) Ten esthetician's stools and waste container at each station;
  - (3) One facial vaporizer;
  - (4) One galvanic current apparatus;
  - (5) One infra-red lamp;
  - (6) One woods lamp;
  - (7) One magnifying lamp;
  - (8) One hair removal wax system;
  - (9) One thermal wax system;
  - (10) One suction machine;
  - (11) One exfoliation machine with brushes; and
  - (12) One hand washing sink with hot and cold running water, separate from restrooms.
- (c) The advanced department in an esthetics school must be equipped with the following equipment if there are more than 40 enrolled advanced students:
  - (1) One station for each additional two students: a station shall include one facial treatment table or chair and one stool; and
  - (2) Two hand washing sinks with hot and cold running water, separate from restrooms.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0304 EQUIPMENT FOR MANICURING SCHOOLS**

- (a) The beginner department in a manicuring school must be equipped with the following equipment:
  - (1) One mannequin practice table/stand to accommodate each student enrolled in the beginner department; and
  - (2) One hand washing sink with hot and cold running water, separate from restrooms.
- (b) The advanced department in a manicuring school must be equipped with the following equipment:
  - (1) Two hand washing sinks with hot and cold running water, separate from restrooms, located in or adjacent to the clinic area;
  - (2) Ten work tables with two chairs per table;
  - (3) Ten pedicure chairs and basins;
  - (4) A waste container at each station; and
  - (5) A covered container for soiled or disposable towels located in the clinic area.
- (c) The advanced department in a manicuring school must be equipped with the following equipment if there are more than 40 enrolled advanced students:
  - (1) One station for each additional two students a station shall include one work table and two chairs; and
  - (2) Two hand washing sinks with hot and cold running water, separate from restrooms

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0305 EQUIPMENT FOR NATURAL HAIR CARE STYLING SCHOOLS**

- (a) The beginner department in a natural hair care styling school must be equipped with the following:
  - (1) One shampoo bowl and chair. Each side approach shampoo bowl must be at least 40 inches apart, center of bowl to center of bowl; free standing shampoo bowls must be at least 31 inches apart, center of bowl to center of bowl;
  - (2) Styling equipment for the purpose of natural hair care;
  - (3) Visual aids;
  - (4) One mannequin practice table/stand to accommodate each student.
- (b) The advanced department in a natural hair care styling school must be equipped with the following:
  - (1) Two shampoo bowls and chairs. Each side approach shampoo bowl must be 40 inches apart center of bowl to center of bowl; free standing shampoo bowls must be 31 inches apart center of bowl to center of bowl;
  - (2) Ten stations. A station shall include one mirror and one hydraulic chair;
  - (3) Two hooded floor type dryers; and
  - (4) Styling equipment for the purpose of natural hair care.
- (c) The advanced department in a natural hair care styling school must be equipped with the following if there are more than 40 enrolled advanced students:
  - (1) One station for each additional two students; a station shall include one mirror and one hydraulic chair;
  - (2) One hooded dryer for each additional 10 students; and
  - (3) One shampoo bowl for each additional 10 students.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0401 COSMETOLOGY AND APPRENTICE STUDENT EQUIPMENT**

Each cosmetology and apprentice cosmetology student shall be supplied with following equipment:

- (1) Implements for a complete manicure;
- (2) 12 combs;
- (3) Two capes;
- (4) Six brushes;
- (5) Thirty-six assorted clips;
- (6) Assorted smooth rollers;
- (7) Hard rubber or nonflammable comb for heat protection used in thermal styling;
- (8) One electric marcel iron;
- (9) One razor and one clipper;
- (10) One thinning shears;
- (11) One shaping shears;
- (12) One eyebrow tweezer;

- (13) One tint brush;
- (14) One mannequin with hair; and
- (15) One blow dryer.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0402 ESTHETICS STUDENT EQUIPMENT**

Each esthetics school shall supply each esthetician student with the following:

- (1) Draping;
- (2) Spatulas;
- (3) Tweezers;
- (4) Make up supplies; and
- (5) One mannequin.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0403 MANICURING STUDENT EQUIPMENT**

Each manicuring school shall provide each manicurist student with the following:

- (1) A manicurist bowl;
- (2) Nail brushes;
- (3) A tray for manicuring supplies;
- (4) One mannequin hand;
- (5) A manicuring kit containing proper implements for manicuring and pedicuring; and
- (6) Implements for artificial nails, nail wraps and tipping.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0404 NATURAL HAIR CARE STYLING STUDENT EQUIPMENT**

Each natural hair care school shall supply each natural hair care student with the following:

- (1) Six combs;
- (2) Six brushes;
- (3) Ten clips;
- (4) Mannequin with hair;
- (5) One blowdryer; and
- (6) Two capes.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0501 SUBMISSION OF RECORDS**

All cosmetic art schools must submit to the Board the appropriate, completed, original Board form for each student including enrollment, transfer, withdrawal and graduation. Cosmetic art student forms shall be submitted to the Board within the required time frame established in the following table.

15 Days	30 Days
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Esthetics, Manicuring, Natural Hair Care and Teacher trainee forms including: enrollments, withdrawals, and transfers	Cosmetology forms including: enrollments, withdrawals, transfers and graduations
	Esthetics, Manicuring, Natural Hair care and Teacher trainee graduation forms

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0502 PERMANENT RECORDS, FORMS AND DOCUMENTATION**

(a) Cosmetic art schools must maintain a secure/locked permanent file of matriculations for all enrolled students and students that have withdrawn or graduated within the last six months together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this room. The permanent file shall include a copy of:

- (1) Board Enrollment Form;
- (2) Documentation of student receipt of school policies, school/student contract and the Board felony policy;
- (3) All applicable Board Withdrawal Forms;
- (4) Social security card for any individual that has a social security number or tax ID card or student visa information;
- (5) Government issued ID and proof of date of birth;
- (6) Grades for all examinations and documentation for pass/fail performances;
- (7) Documentation for any leave of absence over 30 days;
- (8) Transfer of hours form documenting hours earned in other schools and hours accepted by current school; and
- (9) Graduation Form.

(b) Record of hours earned daily, including field trip hours and documentation of field trip hours (updated and subtotaled weekly with a running grand total):

- (1) A daily record shall be kept of the performances for each student, showing the actual date of the performance and the teacher that approved;
- (2) A daily record shall be kept of the actual number of hours of attendance; and
- (3) Performance Record (updated and subtotaled weekly).

(c) When a student enrolled in a cosmetic art school withdraws from such school, the cosmetic art school shall report the withdrawal to the Board of the administrative decision to withdraw the student.

(d) If a student withdraws from a cosmetic art program within the first five days, the school need not submit the enrollment to the Board.

(e) The graduation form documentation must be signed by on site school staff or on site school administrators and must have

the seal of the school affixed. The original graduation form documentation must be prepared on the Board form. The cosmetic art school shall mail, within 30 days after the student's graduation date, with the school seal affixed, the graduation form documentation to the Board at the Board's address.

(f) All forms submitted to the Board must be sealed originals and a copy maintained in the school file. All forms submitted to the Board must be completed, except for student signatures as necessary, by on site school staff or on site school administrators. Board forms shall be used for the sole purpose of documenting to the Board student records and shall not be used to notify students of enrollment, transfer of hours, withdrawal or graduation.

(g) Changes or corrections to any Board form must be submitted to the Board with supporting documentation.

(h) All cosmetic art schools must maintain an original, daily record of enrolled students hours and performances on file at the school. This record must be kept in a secured location under lock and key but made available for review by the Board or its agent at any time.

(i) All records kept by a cosmetic art school on a student that has withdrawn or graduated must be kept in the school's locked files for future reference until the date the student is accepted for the state board examination or five years after the date the student first enrolled in the school, whichever occurs earlier. Forms reviewed by the Board or an agent of the Board may be removed from this room.

(j) The record of all hours and performances must be verifiable through documentation such as time cards or performance grading. Credit issued to students that cannot be verified may be eliminated from the student record by an agent of the Board.

(k) Access to student records must be limited to agents of the Board, teachers and administrators of the school. Records cannot be altered offsite. Records altered onsite must be attached to supporting documentation.

(l) All individuals in a cosmetic art school receiving cosmetic art education, earning hours, performing or practicing cosmetic art services must be enrolled in the school.

(m) Only teachers reported to the Board as employees of a cosmetic art school may grade practical student examinations and evaluate pass/fail of student performances. Only on site teachers, on site school administrators or on site school staff shall record student hours and performances, grade examinations and determine completion and record credit of live model/mannequin performances.

(n) Passing grades for examinations and the successful completion of live model/mannequin performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Passing grades and performances cannot be credited to students without meeting the requirements of the evaluation plan.

(o) Cosmetic art schools must provide to each student a copy of school policies, the Board felony policies and retain for the permanent file a copy of the student's acknowledgement of receipt.

(p) Students with unsatisfied academic obligations shall not be submitted to the Board as graduates.

(q) Cosmetic art schools shall not report to the Board the unsatisfied financial obligations of any cosmetic art student. Cosmetic art schools must not prevent the graduation of students that have met the Board minimum requirements and passed all school academic requirements.

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools cannot give or deduct hours or performances as a reward or penalty.

(s) An applicant may receive credit for instruction taken in another state if the conditions set forth in this Rule are met:

- (1) The applicant's record shall be certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records on a case-by-case basis. Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form submitted directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performance. Such original documentation shall be submitted to the Board with enrollment; and
- (2) In order that hours may be transferred from one cosmetic art school to another, a student must pass an entrance examination given by the school to which the student is transferring.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0601 COSMETIC ART CURRICULA**

(a) Cosmetic art schools must develop and submit to the Board a curriculum of each discipline to be taught at the school. The curriculum, once approved by the Board's standards listed in Rules .0602-.0610 of this Section must be adhered to and lessons developed from the approved curriculum.

(b) Before a student may move from the beginner department to the advanced, the minimum requirements shall be met.

(c) Performances shall be defined as the systematic completion of the steps for safe and effective cosmetic art services to a client.

(d) All cosmetic art students shall receive training on Material Safety Data Sheets prepared by the manufacturer on all products used by the school's students in performances.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0602 COSMETOLOGY CURRICULUM**

(a) To meet the approval of the Board, a cosmetologist training course must consist of at least 1500 hours of instruction in theory and practical application, divided as follows:

<b>Theory and Performance Requirements</b>	<b>Hours</b>	<b>Services</b>	
Beginners: Professional image, sanitation, bacteriology, disinfection, first aid, anatomy, electricity, chemistry, professional ethics, draping, shampooing, roller sets, pin curls, ridge curls with C shaping, fingerwaves, braids, artificial hair, up-styles, blowdrying brush control, blowdrying with curling iron, pressing/thermal, hair cutting, partings, perm wraps, relaxer sectioning, color application sectioning, scalp treatments, manicures, pedicures, and artificial nails	300		
Advanced: Styles and techniques of cosmetology services including arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching or coloring hair; esthetics and manicuring; and business management and salon business	1200		
<b>Performance Requirements</b>		<b>Mannequin</b>	<b>Live Model</b>
Scalp and hair treatments			10
Fullhead fingerwave and style		5 or	5
Fullhead pincurl and style		5 or	5
Hair styling – sets, blowdrying, thermal press/flat iron, and artificial hair		70	100
Haircuts		10	75
Chemical reformation or permanent waving and relaxers		25	10
Temporary color			2
Color application – semi, demi, permanent color and hair lightening		10	30
Multidimensional color – low/high lighting, cap, bleach		10	15
Lash and brow color			2
Nail care – manicures and pedicures			15
Artificial nails sets		5 or	5
Facials with surface manipulation/makeup			10
Hair removal			5

- (b) A minimum of 300 hours of theory is required prior to conducting live model performances on the public.
- (c) Certification of live model or mannequin performance completions is required along with the graduation form and application for the examination.
- (d) A live model may be substituted for a mannequin for any mannequin service.
- (e) All mannequin services may be performed using a simulated product.
- (f) Simulated product is not allowed for credit for live model performance.
- (g) Mannequin services shall not be substituted for live model services.
- (h) Sharing of performance completions is not allowed.
- (i) Credit for a performance shall be given to only one student.
- (j) A nail set is one hand including all four fingers and thumb.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0603 APPRENTICE COSMETOLOGY CURRICULUM**

(a) To meet the approval of the Board, an apprentice cosmetologist training course must consist of at least 1200 hours of instruction in theory and practical application, divided as follows:

**APPROVED RULES**

<b>Theory and Performance Requirements</b>	<b>Hours</b>	<b>Services</b>	
Beginners: Professional image, sanitation, bacteriology, disinfection, first aid, anatomy, electricity, chemistry, professional ethics, draping, shampooing, roller sets, pin curls, ridge curls with C shaping, fingerwaves, braids, artificial hair, up-styles, blowdrying brush control, blowdrying with curling iron, pressing/thermal, hair cutting, partings, perm wraps, relaxer sectioning, color application sectioning, scalp treatments, manicures, pedicures, and artificial nails	300		
Advanced: Styles and techniques of cosmetology services including arranging, dressing, curling, waving, cleansing, cutting, singeing, bleaching or coloring hair, esthetics and manicuring; and business management and salon business	900		
<b>Performance Requirements</b>		<b>Mannequin</b>	<b>Live Model</b>
Scalp and hair treatments			8
Fullhead fingerwave and style		3 or	3
Fullhead pincurl and style		3 or	3
Hair styling – sets, blowdrying, thermal press/flat iron, and artificial hair		56	80
Haircuts		8	60
Chemical reformation or permanent waving and relaxers		19	8
Temporary color			1
Color application – semi, demi, permanent color and hair lightening		8	11
Multidimensional color – low/high lighting, cap, bleach		8	3
Lash and brow color			1
Nail care – manicures and pedicures			12
Artificial nails sets		4 or	4
Facials with surface manipulation/makeup			7
Hair removal			3

- (b) A minimum of 300 hours of theory is required prior to conducting live model performances on the public.
- (c) Certification of live model or mannequin performance completions is required along with the graduation form and application for the examination.
- (d) A live model may be substituted for a mannequin for any mannequin service.
- (e) All mannequin services may be performed using a simulated product.
- (f) Simulated product is not allowed for credit for live model performance.
- (g) Mannequin services shall not be substituted for live model services.
- (h) Sharing of performance completions is not allowed.
- (i) Credit for a performance shall be given to only one student.
- (j) A nail set is one hand including all four fingers and thumb.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0604 ESTHETICS CURRICULUM**

- (a) To meet the approval of the Board, an esthetician training course must consist of at least 600 hours of instruction in theory and practical application, divided as follows:

<b>Theory and Performance Requirements</b>	<b>Hours</b>	<b>Services</b>
Beginners: anatomy/physiology, hygiene, disinfection, first aid, chemistry, draping, facial/body treatment (cleansing, manipulations,	75	

masks), hair removal, basic dermatology, machines, electricity, apparatus, aromatherapy, nutrition, make-up/color theory,			
Advanced: Styles and techniques of esthetics services including facials, makeup application, performing skin care, hair removal, eyelash extensions and applying brow and lash color; business management; and professional ethics	525		
<b>Performance Requirements</b>		Mannequin	Live Model
Facials Manual (skin analysis, cleansing, surface manipulations, packs and masks)		10	30
Facials Electronic (the use of electrical modalities, including dermal lights, and electrical apparatus for facials and skin care including galvanic and faradic)			30
Eyebrow arching		5	15
Hair removal (hard wax, soft wax, depilatories)		5	25
Makeup application (skin analysis, complete and corrective makeup)		10	20
Eyelash extensions		5	5
Brow and lash color		5	5

- (b) A minimum of 75 hours of theory is required prior to conducting live model performances on the public.
- (c) Certification of live model or mannequin performance completions is required along with the graduation form and application for the examination.
- (d) A live model may be substituted for a mannequin for any mannequin service.
- (e) All mannequin services may be performed using a simulated product.
- (f) Simulated product is not allowed for credit for live model performance.
- (g) Mannequin services shall not be substituted for live model services.
- (h) Sharing of performance completions is not allowed.
- (i) Credit for a performance shall be given to only one student.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.*

## **21 NCAC 14T .0605 MANICURING CURRICULUM**

- (a) To meet the approval of the Board, a manicurist training course must consist of at least 300 hours of instruction in theory and practical application, divided as follows:

<b>Theory and Performance Requirements</b>	<b>Hours</b>	<b>Services</b>	
Beginners: Manicuring theory, disinfection, first aid, trimming, filing, shaping, decorating, arm and hand manipulation, sculptured and artificial nails; and pedicuring	60		
Advance: Styles and techniques for the care, treatment and decoration of fingernails, toenails, cuticles, nail extensions and artificial nails; electric file; business management; and professional ethics	240		
<b>Performance Requirements</b>		Mannequin	Live Model
Manicures including trimming, filing, shaping, decorating and arm and hand manipulations		5	10
Applications or repair of sculptured or artificial nail sets		5	15
Pedicures			10

- (b) A minimum of 60 hours theory is required prior to conducting live model performances on the public.
- (c) Certification of live model or mannequin performance completions is required along with the graduation form and application for the examination.
- (d) A live model may be substituted for a mannequin for any mannequin service.

- (e) All mannequin services may be performed using a simulated product.
- (f) Simulated product is not allowed for credit for live model performance.
- (g) Mannequin services shall not be substituted for live model services.
- (h) Sharing of performance completions is not allowed.
- (i) Credit for a performance shall be given to only one student.
- (j) A nail set is one hand including all four fingers and thumb.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0606 NATURAL HAIR CARE STYLING CURRICULUM**

(a) To meet the approval of the Board, a natural hair care styling training course must consist of at least 300 hours of instruction in theory and practical application, divided as follows:

Theory and Performance Requirements	Hours	Services	
Beginners: Sanitation, bacteriology, disinfection, first aid, shampooing, draping, anatomy, disorders of the hair and scalp	60		
Advanced: Styles and techniques of natural hair styling including twisting, wrapping, extending, locking, blowdry and hot iron; and business management and professional ethics	240		
Performance Requirements		Mannequin	Live Model
Braids		5	5
Twists		5	5
Knots		3	2
Corn rows		3	2
Hairlocking		5	5
Artificial hair and decorations		5	5
Blow dry and flat iron		5	5
Braid Removal		5	5

- (b) A minimum of 60 hours of theory and is required prior to conducting live model performances on the public.
- (c) Certification of live model or mannequin performance completions is required along with the graduation form and application for the examination.
- (d) A live model may be substituted for a mannequin for any mannequin service.
- (e) All mannequin services may be performed using a simulated product.
- (f) Simulated product is not allowed for credit for live model performance.
- (g) Mannequin services shall not be substituted for live model services.
- (h) Sharing of performance completions is not allowed.
- (i) Credit for a performance shall be given to only one student.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17;  
Eff. January 1, 2012.

**21 NCAC 14T .0607 COSMETOLOGY TEACHER TRAINEE CURRICULUM**

(a) To meet the approval of the Board, a cosmetologist teacher training course must consist of at least 800 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
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Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, facilitating student shop internship, preparing class lectures and presentations, preparing examinations, grading and G.S. 88B and the rules of the Board	150
Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations and giving practical	650

demonstrations	
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(b) A minimum of 150 hours of theory is required prior to trainees' being permitted to instruct in a cosmetic art classroom.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0608 ESTHETIC TEACHER TRAINEE CURRICULUM**

(a) To meet the approval of the Board, under the standards set out in these Rules an esthetician teacher training course must consist of at least 650 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, preparing class lectures and presentations, preparing examinations, grading and G.S. 88B and the rules of the Board	120
Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations and giving practical demonstrations	530

(b) A minimum of 120 hours of theory is required prior to trainees' being permitted to instruct in a cosmetic art classroom.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0609 MANICURIST TEACHER TRAINEE CURRICULUM**

(a) To meet the approval of the Board, under the standards set out in these Rules a manicurist teacher training course must consist of at least 320 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, grading, preparing class lectures and presentations, preparing examinations and G.S. 88B and the rules of the Board	115
Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations and giving practical demonstrations	205

(b) A minimum of 115 hours of theory is required prior to trainees' being permitted to instruct in a cosmetic art classroom.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0610 NATURAL HAIR CARE TEACHER CURRICULUM**

(a) To meet the approval of the Board, under the standards set out in these Rules natural hair care teacher training course must consist of at least 320 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Theory: observation theory, motivation, business management, student relations, teaching techniques, preparing lesson plans, grading, preparing class lectures and presentations, preparing examinations and GS 88B and the rules of the Board	115
Practical Application: Conducting theory classes from prepared lessons, preparing and giving examinations and giving practical demonstrations	205

(b) A minimum of 115 hours of theory is required prior to trainees' being permitted to instruct in a cosmetic art classroom.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0611 ONLINE INSTRUCTION**

Online instruction and course hours are not accepted by the Board for any cosmetic art discipline. Online resources, course supplements and internet research may be used during the course of study with the supervision of a cosmetic art teacher within a cosmetic art school.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

**21 NCAC 14T .0612 INSTRUCTION GUIDELINES**

(a) The hours earned in the advanced department must be devoted to study and performance completions.

(b) Work in the advanced department may be done on the public. Cosmetology and apprentice students with less than 300 hours, esthetician students with less than 75 hours, and manicurist and natural hair care students with less than 60 hours must not work in this department and are not allowed to work on the public except shampoo and scalp manipulations.

(c) All work done by students on the public must be checked by the cosmetic art teacher as the work is being performed and after the service has been completed so that the teacher may point out errors to the student in order that they may be corrected.

(d) Cosmetic art students shall receive training and passing scores on examinations on theory prior to performing services.

(e) Theory work shall include lectures on theory subjects as well as demonstrations, questions and answers on textbooks, written examinations, and in-class practice of procedures and methods.

(f) Cosmetic art teacher trainees must be enrolled in school to earn hours.



- (g) Cosmetic art schools must supply each student with a copy of An Act to Regulate Cosmetic Art, Board rules, and the student handbook.
- (h) All of the work outlined in the Beginners' Department and the Advanced Department shall be given to the students through practical demonstrations and lectures, questions and answers on textbooks, and written exam.
- (i) A minimum of 10 percent of scheduled attendance time per week shall be dedicated to theory instruction, questions and answers on textbooks, and written exam shall be given to full time students per week.
- (j) All papers shall be graded and returned to the students in order that the students may see their errors.
- (k) Cosmetic art students may receive training and practice only in the discipline in which they are enrolled.
- (l) All live model performances must be done on the clinic floor. Mannequin performances may be performed on the clinic floor or in an advanced department classroom.
- (m) Textbooks used for instruction shall not exceed five years after original publication date.
- (n) Schools must provide text books and supplementary educational materials and equipment to students.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0613 UNIFORMS AND IDENTIFICATION**

- (a) Each cosmetic arts school must define what constitutes a uniform for students and acceptable attire for teachers. Students and teachers shall wear the uniform or acceptable attire as defined by the school so that Board members or agents of the Board can identify by sight students and teachers.
- (b) Each school's definition of acceptable attire cannot change more than once per year.
- (c) Students must wear a name tag identifying student name, cosmetic art discipline and academic status. At no time shall a student fail to wear a name tag.
- (d) Each cosmetic art school may permit students to be out of uniform a maximum of four days per year. Notice to the Board must be submitted no less than 10 days prior to any day uniforms will not be worn.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0615 FIELD TRIPS**

- (a) Cosmetic art schools must notify the Board prior to any field trip and record the field trip hours of each student. Cosmetic Art Educational Field Trips include the following activities:
  - (1) Cosmetic art shops;
  - (2) Cosmetic art Conventions;
  - (3) Competition Training;
  - (4) Other Schools;
  - (5) State Board Office;
  - (6) Supply Houses;
  - (7) College or Career Day at School;
  - (8) Fashion Shows;
  - (9) Rest Homes/Nursing Homes;

- (10) Hospitals; and
- (11) Funeral Homes.

- (b) An instructor must be present during these educational field trips listed in Paragraph (a) of this Rule, for credit to be given to students, with a ratio of one instructor per 25 students present.
- (c) The maximum number of hours a student may earn for field trips is 40 credit hours for cosmetology students, 20 credit hours for esthetician students and 10 credit hours for manicurist or natural hair care students.
- (d) Students may earn up to four additional hours of credit for interviews at a licensed cosmetic art shop.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0616 ADDITIONAL HOURS**

- (a) Notwithstanding any other provision of the rules in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, esthetician, manicurist, natural hair care specialist or teacher candidate who has failed either section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before reapplication for examination shall be accepted by the Board:

- (1) Cosmetologist 200 hours;
- (2) Esthetician 80 hours;
- (3) Manicurist 40 hours;
- (4) Natural Hair Care Specialist 40 hours; and
- (5) Teacher:
  - (A) cosmetology 100 hours;
  - (B) esthetician 80 hours; and
  - (C) manicurist 40 hours.

- (b) Schools shall evaluate students returning to complete additional hours to fulfill three time examination failure requirements and shall provide remedial assistance and training in the areas of deficiency.
- (c) Teacher candidates with no prior cosmetic art teacher training program experience shall provide a written affidavit documenting a minimum of required work experience as outlined in 21 NCAC 14N .0115 or complete a minimum of the hours required for the teacher curriculum in the discipline in which they hold a license.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0617 TEACHER TRAINEES**

- (a) A cosmetic art teacher trainee may not perform clinical services on a patron at the cosmetic art school.
- (b) A cosmetic art teacher trainee shall be supervised by a cosmetic art teacher at all times when the trainee is at a cosmetic art school except as set out in Paragraph (c) of this Rule.
- (c) A manicurist, natural hair care or esthetician teacher may supervise a cosmetic art teacher trainee with regard to manicuring, natural hair care or esthetics, as appropriate.
- (d) A cosmetic art teacher trainee program may be a full time program or a part time program. A cosmetic art teacher trainee, however, may not receive credit for more than eight hours per day.

(e) Teacher trainees may present lessons they have prepared under the direct supervision of a licensed cosmetic art teacher as long as the supervising teacher is present in the classroom.

(f) Persons receiving teacher training in a cosmetic art school shall be furnished a teacher's manual and shall spend all of their training time under the direct supervision of a licensed cosmetic art teacher and shall not be left in charge of students or the school at any time.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0702 TRANSFER OF CREDIT**

(a) A student who transfers from one cosmetic art discipline to another cosmetic art discipline shall not receive credit for hours received in the initial curriculum.

(b) Up to 25 percent of all credit earned in an approved esthetician, manicurist or natural hair care teacher training program may be transferred to a cosmetology teacher training program.

(c) A maximum of 160 hours earned in either an esthetician, natural hair care or manicurist teacher training program may be transferred between programs once.

(d) Licensed estheticians, manicurists and natural hair care stylists may apply up to 25 percent of hours required for licensure by G.S. 88B earned toward the cosmetology curriculum.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0703 EXPIRATION OF STUDENT CREDIT**

Students and graduates who fail to file an application for the examination within five years of the initial enrollment shall not be credited any hours or performances previously earned.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; 88B-19; Eff. January 1, 2012.

**21 NCAC 14T .0705 SCHOOL PERFORMANCE REQUIREMENTS**

(a) Each cosmetic art school shall meet or exceed a program completion rate of at least 50 percent during any five year period and shall meet or exceed a student pass rate on state licensure examinations of at least 70 percent during any three year period.

(b) The school shall allow the teachers to have the opportunity to prepare for class, evaluate students' progress in the course, counsel students individually, and participate in activities of continuing education.

(c) Cosmetic art schools must provide to substitutes copies of lesson plans and the performance evaluation plan for the successful grading of clinical performances.

(d) School attendance policies shall give appropriate performances attendance credit for all hours attended;

(e) If a graduate meets all the financial, hours, academic, and performance requirements the school must provide the student with the examination application.

(f) Cosmetic Art schools shall maintain current bond according to G.S. 88B and shall submit certification of renewal or new bond prior to expiration of the bond approved by the Board.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0706 SCHOOL APPROVAL CHANGES AND SCHOOL CLOSING**

(a) If the square footage, instructional layout or location of a cosmetic art school changes, or if there is a transfer of majority ownership of a cosmetic art school, whether by sale, lease or otherwise a new approval application is required.

(b) License and letters of approval issued to cosmetic art schools are not transferrable, and are valid only for the location, square footage and enrollment capacity for which issued, and to the owner to whom issued. The letter of approval shall contain the school name, school owner name, school location, date of approval, the signature of the Board members, the amount of approved square footage and the maximum number of enrollments for which the school has been approved.

(c) Schools intending to close must notify the Board not less than 30 days in advance.

(d) Schools must make provisions for the long term storage of school documents, and facilitate the retrieval of any school documents upon the request of a student or the Board. Schools shall notify the Board of the contact information for retrieval of any school information.

(e) Schools must facilitate and cooperate in the final inspection and processing of student hours.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0802 SCHOOL SANITATION GRADES**

Schools shall follow all Board sanitation regulations. Schools shall be issued a grade at each inspection on a grade card provided by the Board.

*History Note:* Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.

**21 NCAC 14T .0803 SCHOOL INSPECTIONS**

(a) Schools must facilitate and cooperate during all school inspections

(b) Schools are subject to reevaluation and re-inspection at any time

(c) Failure to comply with the laws and rules of the Board is cause to revoke or suspend the school's license/letter of approval.

(d) In addition to such other reports as may be required by the Board, cosmetic art schools shall report to the Board or its authorized agent, upon inspection of the cosmetic art school and at other times upon specific request, the names of all students currently enrolled and the hours and performances completed by each.

(e) The owner or manager of the cosmetic art school shall read each inspection report made of the school by an authorized agent of the Board to determine that the information on the inspection

report is correct, shall sign and retain a copy of all inspection reports.

(f) If any part of the information on the report is incorrect, it shall be corrected by the authorized agent of the Board

(g) A school may submit an exception to any inspection report. Such exceptions shall be prepared and signed by the owner or manager and submitted to the Board and shall be attached to the report.

(h) All present student equipment shall be made available to inspectors during school inspection.

(i) Cosmetic art schools must maintain copies of lesson plans and make such copies available to an agent of the Board upon request.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

#### **21 NCAC 14T .0901 SCHOOL PROBATION**

(a) After notice and opportunity for a hearing, the Board shall put the school on probation if the Board finds that the program fails to comply with General Statutes or these Rules. The decision shall identify all deficiencies required to be corrected for the program to come into compliance.

(b) No later than one calendar year after notification, the school shall either:

- (1) Correct the deficiencies identified above and come into compliance with Board requirements; or
- (2) Request an extension of time in which it shall:
  - (A) Explain the basis for its failure to correct the deficiencies within the allotted time;
  - (B) Provide a summary of the program's good faith efforts to come into compliance within the allotted time; and
  - (C) Present a plan of action to come into compliance within the extension.

(c) The Board shall extend the time by a single six-month period if:

- (1) The explanation provided above is complete and contains all material facts;
- (2) The efforts made to come into compliance demonstrate good faith; and
- (3) The plan of action to come into compliance is realistic and complete.

(d) The Board shall make site visits or require the school to submit progress reports, syllabi, evaluative tools and student records when necessary to verify the accuracy of the report.

(e) When a program previously placed on probation fails to demonstrate compliance with General Statutes or these Rules as set forth in the Board's order, the Board shall order the school's official and the director to appear at a hearing at which time the school shall present evidence why the school's license and letter of approval should not be withdrawn.

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; Eff. January 1, 2012.*

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### **CHAPTER 32 – MEDICAL BOARD**

#### **21 NCAC 32B .1303 APPLICATION FOR PHYSICIAN LICENSE**

(a) In order to obtain a Physician License, an applicant shall:

- (1) submit a completed application, attesting under oath that the information on the application is true and complete, and authorizing the release to the Board of all information pertaining to the application;
- (2) submit a photograph, at least two inches by two inches, affixed to the oath, and attested by a notary public;
- (3) submit documentation of a legal name change, if applicable;
- (4) supply a certified copy of applicant's birth certificate if the applicant was born in the United States or a certified copy of a valid and unexpired US passport. If the applicant does not possess proof of U.S. citizenship, the applicant must provide information about applicant's immigration and work status which the Board will use to verify applicant's ability to work lawfully in the United States;
- (5) submit proof on the Board's Medical Education Certification form that the applicant has completed at least 130 weeks of medical education. The applicant's date of graduation from medical school shall be written in the designated space, and the school seal shall be stamped on the form; the dean or other official of the applicant's medical school shall sign this form, verifying the information;
- (6) for an applicant who has graduated from a medical or osteopathic school approved by the LCME, the CACMS or COCA, meet the requirements set forth in G.S. 90-9.1;
- (7) for an applicant graduating from a medical school not approved by the LCME, meet the requirements set forth in G.S. 90-9.2;
- (8) provide proof of passage of an examination testing general medical knowledge. In addition to the examinations set forth in G.S. 90-10.1 (a state board licensing examination; NBME; USMLE; FLEX, or their successors), the Board accepts the following examinations (or their successors) for licensure:
  - (A) COMLEX,
  - (B) NBOME, and
  - (C) MCCQE;
- (9) submit proof that the applicant has completed graduate medical education as required by G.S. 90-9.1 or 90-9.2, as follows:
  - (A) A graduate of a medical school approved by LCME, CACMS or COCA shall have satisfactorily completed at least one year of

- graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
- (B) A graduate of a medical school not approved by LCME shall have satisfactorily completed three years of graduate medical education approved by ACGME, CFPC, RCPSC or AOA.
- (C) An applicant may satisfy the graduate medical education requirements of Parts (A) or (B) of this Subparagraph by showing proof of current certification by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
- (10) submit a FCVS profile:
- (A) If the applicant is a graduate of a medical school approved by LCME, CACMS or COCA, and the applicant previously has completed a FCVS profile; or
- (B) If the applicant is a graduate of a medical school other than those approved by LCME, COCA or CACMS;
- (11) if a graduate of a medical school other than those approved by LCME, AOA, COCA or CACMS, furnish an original ECFMG certification status report of a currently valid certification of the ECFMG. The ECFMG certification status report requirement shall be waived if:
- (A) the applicant has passed the ECFMG examination and successfully completed an approved Fifth Pathway program (original ECFMG score transcript from the ECFMG required); or
- (B) the applicant has been licensed in another state on the basis of a written examination before the establishment of the ECFMG in 1958;
- (12) submit reports from all state medical or osteopathic boards from which the applicant has ever held a medical or osteopathic license, indicating the status of the applicant's license and whether or not any action has been taken against the licensee;
- (13) submit an AMA Physician Profile and, if applicant is an osteopathic physician, also submit an AOA Physician Profile;
- (14) if applying on the basis of the USMLE, submit:
- (A) a transcript from the FSMB showing a score on USMLE Step 1, both portions of Step 2 (clinical knowledge and clinical skills) and Step 3; and
- (B) proof that the applicant has passed each step within three attempts.
- However, the Board shall waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years;
- (15) if applying on the basis of COMLEX, submit:
- (A) a transcript from the NBOME showing a score on COMLEX Level 1, both portions of Level 2 (cognitive evaluation and performance evaluation) and Level 3; and
- (B) proof that the applicant has passed COMLEX within three attempts. However, the Board shall waive this requirement if the applicant has been certified or recertified by an ABMS, CCFP, FRCP, FRCS or AOA approved specialty board within the past 10 years;
- (16) if applying on the basis of any other board-approved examination, submit a transcript showing a passing score;
- (17) submit a NPDB / HIPDB report, dated within 60 days of submission of the application;
- (18) submit a FSMB Board Action Data Report;
- (19) submit two completed fingerprint record cards supplied by the Board;
- (20) submit a signed consent form allowing a search of local, state, and national files for any criminal record;
- (21) provide two original references from persons with no family or marital relationship to the applicant. These references must be:
- (A) from physicians who have observed the applicant's work in a clinical environment within the past three years;
- (B) on forms supplied by the Board;
- (C) dated within six months of the submission of the application; and
- (D) bearing the original signature of the writer;
- (22) pay to the Board a non-refundable fee pursuant to G.S. 90-13.1(a), plus the cost of a criminal background check; and
- (23) upon request, supply any additional information the Board deems necessary to evaluate the applicant's competence and character.
- (b) In addition to the requirements of Paragraph (a) of this Rule, the applicant shall submit proof that the applicant has:
- (1) within the past 10 years taken and passed either:
- (A) an exam listed in G.S. 90-10.1 (a state board licensing examination; NBOME; USMLE; COMLEX; or MCCQE or their successors;

- (B) SPEX (with a score of 75 or higher); or
- (C) COMVEX (with a score of 75 or higher);
- (2) within the past 10 years obtained certification or recertification or CAQ by a specialty board recognized by the ABMS, CCFP, FRCP, FRCS or AOA;
- (3) within the past 10 years completed GME approved by ACGME, CFPC, RCPSC or AOA; or
- (4) within the past three years completed CME as required by 21 NCAC 32R .0101(a), .0101(b), and .0102.

(c) All reports must be submitted directly to the Board from the primary source, when possible.

(d) An applicant shall appear in person for an interview with the Board or its agent, if the Board needs more information to complete the application.

(e) An application must be completed within one year of submission. If not, the applicant shall be charged another application fee, plus the cost of another criminal background check.

*History note: Authority G.S. 90-8.1; 90-9.1; 90-9.2; 90-13.1; Eff. August 1, 2010; Amended Eff. January 1, 2012; November 1, 2011; October 1, 2011.*

#### **21 NCAC 32C .0103 PREREQUISITES FOR INCORPORATION**

(a) Before filing the articles of incorporation for a professional corporation with the Secretary of State, the incorporators shall file with the Board:

- (1) the properly executed original articles of incorporation;
- (2) a registration fee in the maximum allowable amount set forth in G.S. 55B-10;
- (3) a certificate (N.C.M.B.-P.C. Form 1) signed by all shareholders stating that all persons employed by the corporation are licensed to practice medicine in North Carolina, and representing that the business of the corporation will be conducted in compliance with the Professional Corporation Act and the rules in this Subchapter; and
- (4) a signed certificate (N.C.M.B.-P.C. Form 2) certifying that all shareholders are duly licensed to practice medicine in North Carolina or are otherwise qualified to own shares pursuant to G.S. 55B-6, 55B-14(c) or 55B-16.

(b) The Board shall review the articles of incorporation for compliance with the laws relating to professional corporations and with the rules in this Subchapter. If they comply, the Board shall approve N.C.M.B.-P.C. Form 2 and return the original articles of incorporation and the copy to the incorporators for filing with the Secretary of State. An official copy of the articles

of incorporation shall be retained in the office of the Board. If the articles of incorporation are subsequently changed before they are filed with the Secretary of State, they shall be re-submitted to the Board and shall not be filed with the Secretary of State until approved by the Board.

*History Note: Authority G.S. 55B-4; 55B-10; 55B-12; Eff. February 1, 1976; Amended Eff. January 1, 2012; September 1, 1995; July 1, 1993; May 1, 1989; November 1, 1985.*

#### **21 NCAC 32C .0104 CERTIFICATE OF REGISTRATION**

A Certificate of Registration for a professional corporation shall remain effective until December 31 of each year. A Certificate of Registration may be renewed annually thereafter upon written application to the Board, certifying the names and addresses of all licensed officers, directors, shareholders and employees of the corporation and representing that the corporation has complied with the rules in this Subchapter and the Professional Corporation Act. (N.C.M.B.-P.C. Form 4) The application shall be accompanied by a renewal fee in the maximum allowable amount set forth in G.S. 55B-10.

*History Note: Authority G.S. 55B-10; 55B-11; Eff. February 1, 1976; Amended Eff. January 1, 2012; September 1, 1995; May 1, 1989; November 1, 1985.*

#### **21 NCAC 32C .0107 DOCUMENTS**

*History Note: Authority G.S. 150B-11; Eff. February 1, 1976; Amended Eff. May 1, 1989; Repealed Eff. January 1, 2012.*

#### **21 NCAC 32C .0108 FEES**

The registration and renewal fees for a professional corporation shall be the maximum allowable amount under G.S. 55B-10 and 55B-11.

*History Note: Authority G.S. 55B-10; 55B-11; Eff. February 1, 1976; Amended Eff. January 1, 2012; May 1, 1989.*

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

#### **21 NCAC 50 .0107 BOARD COMMITTEES**

*History Note: Authority G.S. 87-18; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 1989; Repealed Eff. January 1, 2012.*

**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
- Limited 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 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 must take and pass the business and law part of the exam administered by the Board. Persons licensed based upon NICET certification must maintain such certification as a condition of license renewal.

(d) Applicants for licensure in the Fire Sprinkler Inspection Technician classification must pass the technical examination offered by the Board. The Board will accept the results of NICET examination resulting in Level II Certification in "Inspection and Testing of Water-based Systems" by NICET in lieu of the Board administered examination. Persons who obtain license as a Fire Sprinkler Inspection Technician based on NICET certification must maintain such certification as a condition of license renewal.

(e) Applicants for the Fire Sprinkler Inspection Contractor classification must submit evidence of Level III certification in "Inspection and Testing of Water-based Fire 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 and passage of a test administered by the Board.

(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 for plumbing, heating or fuel piping technician license who present a current plumbing or heating journeyman certificate obtained after examination from a local inspection department as defined in G.S. 143-151.8 in the same classification for which technician license is sought are not required to take the technical portion of the Board administered exam if application is made on or before December 31, 2012.

(j) Applicants who hold active Plumbing, Heating or Fuel Piping Technician license obtained by examination 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.

*History Note: Authority G.S. 87-18; 87-21(a); 87-21(b); Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. July 1, 1991; May 1, 1989; August 1, 1982; Temporary Amendment Eff. September 15, 1997; Amended Eff. March 1, 2005; January 1, 2004; July 1, 2003; August 1, 2002; July 1, 1998; Emergency Amendment Eff. December 5, 2005; Emergency Amendment Expired February 13, 2006; Amended Eff. January 1, 2010; May 1, 2006; Amended Eff. Pending Legislative Review.*

**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 shall 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 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;
  - (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;
  - (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 two years and must document attendance at a 16 hour course approved by the Board pursuant to the Rules in this Chapter 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.

*History Note: Authority G.S. 87-18; 87-21(b); Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. January 1, 2004; July 1, 2003; August 1, 2002; July 1, 1998; September 1, 1994; November 1, 1993; April 1, 1991; May 1, 1990; Temporary Amendment Eff. August 31, 2004; Amended Eff. January 1, 2010; June 1, 2006; March 1, 2005; Amended Eff. Pending Legislative Review.*

## **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 may 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 shall 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 shall perform a room-by-room load calculation for all newly installed residential structures prior to installing heating systems, air conditioning systems, or both, 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 shall be performed by a licensee who holds the appropriate license from this Board, or a licensee may utilize a load calculation carried out for this particular structure and location by a North Carolina Licensed Professional Engineer.

(f) When either a furnace, 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, package unit or air handler in a residential heating or air conditioning system is replaced, the licensee shall 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 shall be performed by a licensee who holds the appropriate license from this Board, or a licensee may utilize load calculations carried out for this particular structure and location 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 shall 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.

*History Note: Authority G.S. 87-18; 87-23; 87-26;*

*Eff. February 1, 1976;*

*Readopted Eff. September 29, 1977;*

*Amended Eff. January 1, 2010; March 1, 2005; January 1, 2004; July 1, 2003; July 1, 1991; October 1, 1989; May 1, 1989;*

*Amended Eff. Pending Legislative Review.*

## **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 one or two family residential water-based plumbing and fire sprinkler piping systems consistent with NFPA-13D. All multipurpose one or two family residential plumbing and fire sprinkler piping systems shall be hydraulically calculated and designed by a licensed North Carolina Fire Sprinkler Installation Contractor. The licensed Residential Fire Sprinkler installation contractor may also utilize a system calculated and designed by a North Carolina licensed engineer for each specific installation. Residential Fire Sprinkler Installation Contractors shall perform each installation consistent with the calculation and design. Any single purpose residential water-based fire sprinkler system shall be installed by a licensed Fire Sprinkler Installation Contractor.

*History Note: Authority G.S. 87-21;*

*Eff. July 1, 2010;*

*Amended Eff. January 1, 2012.*

## **21 NCAC 50 .1401 CONTINUING EDUCATION REQUIREMENTS**

*History Note: Authority G.S. 87-21(b)(3); 87-22;*

*Eff. April 1, 2001;*

*Amended Eff. January 1, 2010; May 1, 2006; January 1, 2004; April 1, 2003;*

*Repealed Eff. Pending Legislative Review.*



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## **RULES REVIEW COMMISSION**

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*This Section contains information for the meeting of the Rules Review Commission on Thursday December 15, 2011 and January 19, 2012 10:00 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 2<sup>nd</sup> 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**

February 16, 2012      March 15, 2012  
April 19, 2012      May 17, 2012

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### **AGENDA**

#### **RULES REVIEW COMMISSION**

***Thursday, February 16, 2012 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. Alcoholic Beverage Control Commission – 04 NCAC 02S .1008 (Bryan)
  - B. Social Services Commission – 10A NCAC 10 .0203 (Bryan)
  - C. Medical Board – 21 NCAC 32C .0102, .0105, .0106, .0109 (Bryan)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between December 21, 2011 and January 20, 2012
- 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: March 15, 2012

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### **Commission Review**

***Log of Permanent Rule Filings  
December 21, 2011 through January 20, 2012***

#### **INSURANCE, DEPARTMENT OF**

The rules in Chapter 13 are from the Agent Services Division - Non-Insurance Entities including general provisions (.0100); insurance premium finance companies (.0300); motor clubs (.0400); and bail bondsmen and runners (.0500).

Analysis of Contracts

11 NCAC 13 .0308

Amend/\*

## **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).

New River Basin 15A NCAC 02B .0307

Amend/\*

Cape Fear River Basin 15A NCAC 02B .0311

Amend/\*

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).

Open Burning Without an Air Quality Permit 15A NCAC 02D .1903

Amend/\*

Air Curtain Burners 15A NCAC 02D .1904

Amend/\*

## **MEDICAL BOARD**

The rules in Chapter 32 are from the Medical Board and include the licensing and practice standards of doctors, approval of nurse practitioners and physician assistants, regulation of professional corporations and mobile intensive care, and other aspects of medical practice and the regulatory procedures. The rules in Subchapter 32U cover the administration of vaccines by pharmacists.

Administration of Vaccines by Pharmacists 21 NCAC 32U .0101

Amend/\*

## **PHARMACY, BOARD OF**

The rules in Chapter 46 cover organization of the board (.1200); general definitions (.1300); hospitals and other health facilities (.1400); admission requirements and examinations (.1500); licenses and permits (.1600); drugs dispensed by nurse and physician assistants (.1700); prescriptions (.1800); forms (.1900); administrative provisions (.2000); elections (.2100); continuing education (.2200); prescription information and records (.2300); dispensing in health departments (.2400); miscellaneous provisions (.2500); devices (.2600); nuclear pharmacy (.2700); sterile parenteral pharmaceuticals (.2800); product selection (.2900); disposal of unwanted drugs (.3000); clinical pharmacist practitioner (.3100); impaired pharmacist peer review program (.3200); and registry of pharmacist technicians (.3300).

Administration of Vaccines by Pharmacists 21 NCAC 46 .2507

Amend/\*

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## CONTESTED CASE DECISIONS

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*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><b>ALCOHOLIC BEVERAGE CONTROL COMMISSION</b></u>			
ABC Commission v. TruVisions Enterprises, LLC, T/A Touch	10 ABC 7025	06/29/11	26:06 NCR 509
Elm Street Connection LLC, DBA Bella Mea Coal Fired Pizza v. ABC Commission	10 ABC 06298	11/07/11	
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon	11 ABC 2294	07/05/11	
ABC Commission v. Quick Quality Inc., T/A Quick Quality	11 ABC 2543	07/19/11	
ABC Commission v. Lead C. Corp v. T/A Burger King/Shell Convenience Store	11 ABC 5066	10/19/11	
ABC Commission v. GK Mart Inc., T/A GK Mart	11 ABC 02647	07/22/11	
ABC Commission v. Universal Entertainment, LLC T/A Zoo City Saloon (name changed to El Patron Night Club and Bar)	11 ABC 06892	11/04/11	
ABC Commission v. Triangle Food and Fun LLC, T/A Six Forks Pub	11 ABC 07107	09/16/11	
ABC Commission v. CH Pub LLC, T/A Kildares Irish Pub	11 ABC 07109	08/16/11	
ABC Commission v. MBM of NC Inc, T/A Super Mart 3	11 ABC 10549	11/15/11	
ABC Commission v. Octobers, Inc., T/A Toxaway House Restaurant	11 ABC 10955	12/20/11	
ABC Commission v. Charles Franklin Liles, T/A Leather Pockets Billiards and Lounge	11 ABC 11584	11/15/11	
ABC Commission v. Stanley Ray Edwards, T/A Woogies	11 ABC 12968	01/04/12	
<u><b>BOARD OF MASSAGE AND BODYWORK THERAPY</b></u>			
Byung Yoon Kim v. Board of Massage and Bodywork Therapy	11 BMT 09241	09/30/11	
<u><b>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</b></u>			
Donnie R. Holbrook, Susan R Holbrook v. Victim and Justice Service	09 CPS 0449	08/19/11	
Felicia G. Awaritoma v. Crime Victims Compensation Commission	10 CPS 01451	09/01/11	
Larry Overby v. Department of Crime Control Victim Compensation Division	10 CPS 06106	10/14/11	
Dianne Moody Costello v. Victim and Justice Services	11 CPS 05780	06/20/11	
Kimberly A. Whiteside v. Crime Victims Compensation Commission	11 CPS 08900	12/12/11	
Judy D. Hinson v. Department of Crime Control and Public Safety	11 CPS 08984	11/14/11	
Angie T. Hawkins v. Victims Compensation Commission	11 CPS 09142	12/19/11	
Gregory Keith Moseley v. Crime Victim Compensation	11 CPS 09309	11/14/11	
Rosalena Merriam v. Victims Compensation	11 CPS 09780	09/19/11	
<u><b>DEPARTMENT OF HEALTH AND HUMAN SERVICES</b></u>			
Gail Taylor-Hilliard v. DHHS	09 DHR 2455	11/02/11	
Scott M. Jensen, DMD v. DHHS, Division of Medical Assistance	09 DHR 3252	06/21/11	
Association of Home and Hospice Care of North Carolina, Inc., v. DMA, DHHS	09 DHR 6765	10/12/11	
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	
Qingxia Chen and Chen Family Child Care Home Inc v. Division of Child Development	10 DHR 0790	07/29/11	
Theracare Home Health and Staffing, LLC v. DHHS, Division of Medical Assistance Program Integrity	10 DHR 1455	06/01/11	
Ronnie Newton v. DHHS, Division of Health Service Regulation	10 DHR 2172	08/22/11	

# CONTESTED CASE DECISIONS

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	
Qingxia Chen and Chen Family Child Care Home Inc v. Division of Child Development	10 DHR 4182	07/29/11	
WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc, d/b/a Rex Healthcare, Holly Springs Surgery Center, LLC and Novant Health, Inc	10 DHR 5274	05/17/11	26:04 NCR 274
Rex Hospital Inc d/b/a Rex Healthcare v. DHHS, Division of Health Service Regulation, CON Section And WakeMed, Springs Surgery Center, LLC and Novant Health, Inc	10 DHR 5275	05/17/11	26:04 NCR 274
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	
Carteret Family Practice Clinic, P.A., v. DHHS, DMA, Program Integrity Section	10 DHR 5859	07/13/11	26:06 NCR 516
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	
Christopher Sanders v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	10 DHR 7511	06/23/11	
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	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 8735	07/08/11	
Randall Ephraim v. DHHS, Division of Health Service Regulation	10 DHR 9278	09/12/11	
Coretta Francine Hicks v. Health Care Registry	10 DHR 01065	08/19/11	
Brenda P Simms v. Longleaf Neuromedical Treatment Center, Dept. of Health and Human Services	10 DHR 01572	10/14/11	
Marcell Gunter, Alternative Life Programs Inc. v. DHHS, Durham Center LME and DMA (CSCEVC NC Medicaid Provider)	10 DHR 03827	06/23/11	
Cherry's Family Care #2, Albert Dominique Cherry v. DHHS, Regulations Adult Care License Section	10 DHR 04057	11/01/11	
Revonda McCluney Smith v. DHHS, Division of Health Service Regulation	10 DHR 04755	09/29/11	
Tonya M. Faison v. DHHS, Division of Health Service Regulation	10 DHR 05355	11/07/11	
Angela E. Bynum v. DHHS, Division of Health Service Regulation	10 DHR 05654	11/07/11	
American Human Services Inc, v. DHHS, Division of Medical Assistance	10 DHR 05575	08/19/11	26:06 NCR 540
Chera L Dargan v. Department of Health and Human Services Registry	10 DHR 05796	09/01/11	
Yourlinda Farrish v. DHHS, Division of Health Service Regulation	10 DHR 06107	11/07/11	
Gwendolyn Fox, Trinity III v. DMA Program Integrity DMA Controller's Section	10 DHR 06499	09/01/11	
Carter Behavior Health Services Inc. Terry Speller v. DMA/Program Integrity	10 DHR 06715	10/14/11	
WakeMed v. DHHS, Division of Health Service Regulation, CON Section	10 DHR 08008	08/19/11	26:08 NCR 705
Terry Melvin v. Health Care Personnel Registry	10 DHR 08545	10/26/11	
Edna Lee v. DHHS, Division of Health Service Regulation	10 DHR 08938	07/22/11	
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	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 0691	07/08/11	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 0762	07/08/11	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	10 DHR 0763	07/08/11	
Angela Clark v. DHHS	11 DHR 1565	06/03/11	
Geraldine Highsmith, Pediatric Therapy Associates v. DHHS	11 DHR 2021	07/08/11	
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	
Nicole Shante McGee v. DHHS, Division of Facility Services, Health Care Personnel	11 DHR 2355	08/08/11	
Demetrius L. Brooks v. DHHS, Division of Health Service Regulation	11 DHR 2441	06/30/11	
Koisey Lorlu Dahn v. DHHS, Division of Health Service Regulation	11 DHR 2443	09/08/11	
Danielle Whitman v. DHHS	11 DHR 2709	08/08/11	
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	
Daphne Davis v. DHHS, Division of Facility Services, Health Care Personnel Registry	11 DHR 3110	07/13/11	
Hee Soon Kwon d/b/a Beatties Ford Mart v. DHHS	11 DHR 3168	07/18/11	
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	
Kenneth Dellinger Executive Office KD Support Services d/b/a Kellys Care #5 v. DHHS, Division of Health Care Service Regulation Adult Care Licensure Section	11 DHR 4755	07/14/11	
Amy Robinson v. DHHS, Division of Facility Services	11 DHR 4758	07/27/11	
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	
Teresa Hall v. DHHS	11 DHR 5948	12/05/11	
Kathy Daniels v. CNS Registry	11 DHR 6318	08/04/11	
Calvin E. Cowan, Shirley Cowan v. DHHS	11 DHR 6880	08/16/11	
Melody Barnette v. Department of Social Services	11 DHR 7330	09/06/11	

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Samuel Swindell v. DHHS, Regulatory and Licensing Section and Alexander Youth Network	11 DHR 8314	08/22/11
Joyce Muhammad v. DHHS	11 DHR 00198	07/11/11
Abiemwense Osagie v. DHHS, Health Service Regulation, Health Care Personnel Registry	11 DHR 00462	12/02/11
Support Staff v. DHHS, Division of Medical Assistance	11 DHR 01449	07/11/11
Pamela Terry – President/Administrator PALS-Magnolia v. DHHS, Division of Health Service Regulation Mental Health Licensure & Certification Section	11 DHR 01952	09/06/11
Rashea Fields v. DHHS, Division of Health Service Regulation	11 DHR 02088	11/07/11
Maithily H Patel v. Nutrition Service Branch, DHHS	11 DHR 02144	06/30/11
Kishja Marlin v. DHHS	11 DHR 03313	07/07/11
John Kato v. DHHS, Division of Health Service Regulation	11 DHR 03388	12/07/11
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
Edna Lee v. DHHS, Division of Health Service Regulation	11 DHR 03836	07/22/11
Bertha's Place Inc, Wayne Louis Garris v. Mecklenburg County LME	11 DHR 04186	06/17/11
Karana Kolivia Wallace v. DHHS	11 DHR 04190	11/14/11
Crystal Lashay Eason v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 04473	08/12/11
Nicole McGee v. Health Care Personnel Registry	11 DHR 04475	06/17/11
Nyanga G. (Godee) Lumumba v. DHHS	11 DHR 01387	06/24/11
Nyanga G. (Godee) Lumumba v. DHHS	11 DHR 01913	06/24/11
Dondra R. Sugg v. Carteret County Social Services Food Stamp	11 DHR 04958	07/15/11
Joann Everette v. Division of Child Development	11 DHR 04963	11/01/11
Stepping Stones Group Homes Inc v. DHHS, Division Of Health Service Regulation Mental Health Licensure and Certification	11 DHR 05068	07/19/11
Leslie Cowans v. DHHS, Division of Health Services Regulation	11 DHR 05426	09/08/11
Janet K Wallace v. DHHS, Division of Health Service Regulation	11 DHR 05517	10/11/11
Jerris McPhail v. Department of Health and Human Services	11 DHR 05518	07/19/11
Cynthia Neely v. Dept. of Social Services	11 DHR 05786	07/28/11
Tonya Monique Little v. Health Care Personnel Registry	11 DHR 06066	10/04/11
Bobby F Huskey v. Dept. of Health and Human Service Division Health Service Regulation	11 DHR 06238	08/04/11
Silverette Denise Swindell v. DHHS	11 DHR 06429	08/11/11
Recovery Center of Durham v. Division of Health Service Regulation	11 DHR 06491	09/15/11
Sandra Grace and Making Changes, Inc., v. The Beacon Center and DHHS	11 DHR 06792	08/26/11
Comprehensive Rehab of Wilson Inc. Eileen R Carter v. Office of Controller DMA-Accounts Receivable, Rheba C Heggs	11 DHR 07331	08/18/11
Darnell Holman v. DHHS, Division of Health Service Regulation	11 DHR 07856	09/23/11
Teresa Slye v. DHHS, Office of the Chief Medical Examiner	11 DHR 07858	08/19/11
Nicole Jackson v. DHHS, Division of Health Service Regulation	11 DHR 08103	08/22/11
Tony Ledwell v. DHHS, Division of Health Service Regulation	11 DHR 08158	08/31/11
Kevin Warren v. Health Care Personnel Registry	11 DHR 08552	08/23/11
Jenny Michelle Lee v. DHHS, Division of Health Service Regulation	11 DHR 08558	11/30/11
Annette Adams v. DHHS, Division of Health Service Regulation	11 DHR 08897	09/19/11
Robin R Chavis v. Division of Child Development, DHHS	11 DHR 08932	10/14/11
Carson Daycare, Brenda Carson v. Division of Child Development – DHHS	11 DHR 09030	09/23/11
Sherry Marie Jones v. Health Care Personnel Registry HCPR Investigations Branch	11 DHR 09146	09/29/11
Charlene Johnson v. DHHS, Division of Health and Human Services	11 DHR 09147	11/10/11
Bruce Buley v. DHHS, Division of Medical Assistance	11 DHR 09197	12/12/11
Family Intervention & Prevention Services LLC, a North Carolina limited liability company	11 DHR 09243	08/05/11
Audrey A Crawford v. DHHS	11 DHR 09308	09/09/11
Ronald Theodore Harlee v. DHHS, Division of Health Service Regulation	11 DHR 09677	11/04/11
Chenye Melton v. Health Care Personnel Registry	11 DHR 09839	12/01/11
Precious Haven Inc, Melissa McAllister v. DHHS, Program Integrity	11 DHR 10077	12/12/11
Booby Jean Graves v. Health Care Personnel Registry	11 DHR 10120	11/29/11
Virgil Hutchinson/Southeastern Behavioral Healthcare Services LLC v. DHHS, Division of Health Service Regulation, Mental Health Licensure and Certification	11 DHR 10170	12/12/11
Hope Mills v. DHHS, Health Services Regulation	11 DHR 10738	10/11/11
Cathy Crosland v. DHHS	11 DHR 10959	11/01/11
Tawanda Thompson v. DHHS, Division of Health Care	11 DHR 11321	12/08/11

**DEPARTMENT OF CORRECTION**

Andria Lambert v. DOC	10 DOC 3417	08/11/11
Robert Lee Hood v. DOC	11 DOC 7655	08/16/11
John Channon Engle v. Department of Correction	11 DOC 07333	07/11/11

**DEPARTMENT OF JUSTICE**

Timothy Scott Phillips v. Criminal Justice Education and Training Standards Commission	10 DOJ 2518	07/20/11
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
John Patrick Harris v. Sheriffs' Education and Training Standards Commission	10 DOJ 7772	07/21/11
Robert Scott MacFayden v. Sheriffs' Education and Training Standards Commission	10 DOJ 7773	06/01/11
Thomas Lee Midgette v. Criminal Justice Education and Training Standards Commission	10 DOJ 07778	10/14/11
Ikeisha Simone Jacobs v. Criminal Justice Education and Training Standards Commission	10 DOJ 07780	07/15/11
Edwards Lee Bombria, IV v. Sheriffs' Education and Training Standards Commission	10 DOJ 08360	07/14/11

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**CONTESTED CASE DECISIONS**

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Clifford Allan Jones v. Sheriffs' Education and Training Standards Commission	11 DOJ 2018	06/28/11	
Richard Alan Hadley v. Sheriffs' Education and Training Standards Commission	11 DOJ 2019	07/28/11	
Kristopher Adam Vance v. Sheriffs' Education and Training Standards Commission	11 DOJ 2020	07/21/11	
Jason Timothy Winters v. Sheriffs' Education and Training Standards Commission	11 DOJ 4825	07/28/11	
James Robert Graham v. Private Protective Services Board	11 DOJ 4956	09/09/11	
Heath Dwayne Kinney v. Alarm Systems Licensing Board	11 DOJ 4957	06/28/11	
Eric Steven Britt v. Alarm Systems Licensing Board	11 DOJ 5515	07/21/11	
Darren Jay Taylor v. Alarm Systems Licensing Board	11 DOJ 5516	07/21/11	
William Edgard Whidbee v. Sheriffs' Education and Training Standards Commission	11 DOJ 6778	09/03/11	
Laduan Vinyah Jacobs v. Private Protective Services Board	11 DOJ 7650	07/21/11	
Glen Thomas Buckner v. Alarm Systems Licensing Board	11 DOJ 8429	09/09/11	
Charles William Evegan v. Sheriffs' Education and Training Standards Commission	11 DOJ 02016	06/03/11	
Darius Antuan McLean v. Sheriffs' Education and Training Standards Commission	11 DOJ 04824	07/11/11	
Dustin Elvin Campbell v. Criminal Justice Education and Training Standards Commission	11 DOJ 04832	08/30/11	
Drew Wayne Adkins v. Sheriffs' Education and Training Standards Commission	11 DOJ 06780	08/15/11	
Robert Wayne Gregg v. Criminal Justice Education and Training Standards Commission	11 DOJ 06787	08/04/11	
Gary Richard Sessions v. Criminal Justice Education and Training Standards Commission	11 DOJ 06790	08/30/11	
Miriam A. Pearson v. DOJ, Campus Police Program	11 DOJ 07218	10/20/11	
Rodney Dale; Class (John Doe) Health Taylor Gerard v. State of North Carolina, Department of Justice, Charlotte Mecklenburg Police Department, Mecklenburg County Superior Court, Mecklenburg County Sheriffs' Office, Mecklenburg County Attorney's Office	11 DOJ 09708	08/10/11	
Dustin Matthew James v. Criminal Justice Education and Training Standards Commission	11 DOJ 10314	10/31/11	
David Lee Putman v. Criminal Justice Education and Training Standards Commission	11 DOJ 10321	10/26/11	
<b><u>DEPARTMENT OF LABOR</u></b>			
Hilliard Glass Company, Inc v. Department of Labor, Wage and Hour Bureau	11 DOL 07329	07/15/11	
<b><u>DEPARTMENT OF STATE TREASURER</u></b>			
Malcolm Woodall v. Department of State Treasurer, Retirement Systems Division	10 DST 6343	09/01/11	
Edwinna Sexton v. DST, Retirement Systems Divisions	10 DST 02710	10/23/11	
<b><u>STATE BOARD OF EDUCATION</u></b>			
Jeffery Covington v. State Board of Education	10 EDC 7273	06/21/11	
Joseph Dawson v. State Board of Education	10 EDC 06744	07/25/11	
Charla Ann Lewallen v. State Board of Education	11 EDC 04191	07/20/11	
Janice Lucille Muse v. Public Schools of North Carolina State Board of Education, Department of Public Instruction	11 EDC 08155	07/19/11	
Stephanie Alina Sossamon v. Dept. of Public Instruction	11 EDC 08431	07/19/11	
<b><u>DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES</u></b>			
Superior Realty, LLC v. DENR	09 EHR 6631	06/10/11	
Floyd A. Rager, Jr., and Marianne Rager v. Cherokee Co. Health Department, DENR	10 EHR 6163	07/20/11	
Farmington Square LLC, Jawahar Muniyandi v. City of Raleigh Stormwater Management	10 EHR 01613	07/14/11	
Kevan Busik v. DENR, Division of Coastal Management and 1118 Longwood Avenue, Realty Corporation	10 EHR 08355	06/01/11	26:05 NCR 427
Jeff Snavelly/Triad Siteworks Inc v. NCDENR	11 EHR 2475	06/06/11	
Mary Louies Haggins v. Environmental Service, Terra Jane Barnhill	11 EHR 03694	07/21/11	
Jeryl D Jones v. DENR	11 EHR 04312	08/31/11	
Chris & Mary Ricksen v. Swain County Health Department, DENR	11 EHR 05427	08/05/11	
Carolyn Grayson Owens and Guy Owens	11 EHR 11866	10/04/11	
<b><u>DEPARTMENT OF INSURANCE</u></b>			
Janet McKillop v. Blue Cross Blue Shield of, State Health Plan	11 INS 2711	08/04/11	
<b><u>OFFICE OF STATE PERSONNEL</u></b>			
Lewis Ray Murray v. NCSU	09 OSP 00570	08/30/11	
Sandra J. Barile v. Dare County Department of Social Services	10 OSP 0469	07/11/11	
Vlzdimir Zaytsev v. DENR	10 OSP 0905	07/13/11	
Gary W. Buchanan v. DOC	10 OSP 3181	07/15/11	
Mary Bach v. Gaston County DSS	10 OSP 3419	06/23/11	
Daniel Wayne Creson v. DOC	10 OSP 4113	06/16/11	
Robert Lindsey v. Department of Correction	10 OSP 5362	07/05/11	
Beverly M. Terry v. County of Durham, Department of Social Services	10 OSP 5765	07/26/11	26:06 NCR 526
Christopher Sanders v. DHHS	10 OSP 5943	06/23/11	
Katherine Kwesell Harris v. DOT, Retirement of Systems Division	10 OSP 5946	08/24/11	
Charlotte Boyd v. DOT	10 OSP 6533	06/17/11	
Denise Mclean v. DOC	10 OSP 8549	08/01/11	
Earlene F. Hicks v. State Health Plan	10 OSP 06200	09/19/11	
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Reginald Lyons v. Fayetteville State University	11 OSP 0510	08/19/11	

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Melissa A McLean v. Ms. Gerri Robinson, MSW Social Services Director, Durham County, Dept. of Social Services	11 OSP 1379	06/03/11
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Oswald Woode v. DHHS	11 OSP 1960	12/09/11
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Clark D. Whitlow v. Human Resource Department of Charlotte Mecklenburg Library	11 OSP 10873	12/08/11
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Husayn Ali Bey v. Department of Secretary of State	10 SOS 09195	06/28/11
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**UNC HOSPITALS**

Arthur R. Morris, Jr., v. UNC Hospitals	11 UNC 3693	11/16/11
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Linda K Shaw v. UNC Hospitals	11 UNC 09432	09/30/11