

NORTH CAROLINA REGISTER

VOLUME 28 • ISSUE 03 • Pages 154 - 299

August 1, 2013

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Contact List for Rulemaking Questions or Concerns

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

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

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116 West Jones Street

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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: Amy Bason

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NC League of Municipalities

(919) 715-4000

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Raleigh, North Carolina 27603

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Joint Legislative Administrative Procedure Oversight Committee

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300 North Salisbury Street

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NORTH CAROLINA REGISTER
Publication Schedule for January 2013 – December 2013

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment period	Deadline to submit to RRC for review at next meeting	Earliest Eff. Date of Permanent Rule	Delayed Eff. Date of Permanent Rule 31st legislative day of the session beginning:	270 th day from publication in the Register
27:13	01/02/13	12/06/12	01/17/13	03/04/13	03/20/13	05/01/13	05/2014	09/29/13
27:14	01/15/13	12/19/12	01/30/13	03/18/13	03/20/13	05/01/13	05/2014	10/12/13
27:15	02/01/13	01/10/13	02/16/13	04/02/13	04/22/13	06/01/13	05/2014	10/29/13
27:16	02/15/13	01/25/13	03/02/13	04/16/13	04/22/13	06/01/13	05/2014	11/12/13
27:17	03/01/13	02/08/13	03/16/13	04/30/13	05/20/13	07/01/13	05/2014	11/26/13
27:18	03/15/13	02/22/13	03/30/13	05/14/13	05/20/13	07/01/13	05/2014	12/10/13
27:19	04/01/13	03/08/13	04/16/13	05/31/13	06/20/13	08/01/13	05/2014	12/27/13
27:20	04/15/13	03/22/13	04/30/13	06/14/13	06/20/13	08/01/13	05/2014	01/10/14
27:21	05/01/13	04/10/13	05/16/13	07/01/13	07/22/13	09/01/13	05/2014	01/26/14
27:22	05/15/13	04/24/13	05/30/13	07/15/13	07/22/13	09/01/13	05/2014	02/09/14
27:23	06/03/13	05/10/13	06/18/13	08/02/13	08/20/13	10/01/13	05/2014	02/28/14
27:24	06/17/13	05/24/13	07/02/13	08/16/13	08/20/13	10/01/13	05/2014	03/14/14
28:01	07/01/13	06/10/13	07/16/13	08/30/13	09/20/13	11/01/13	05/2014	03/28/14
28:02	07/15/13	06/21/13	07/30/13	09/13/13	09/20/13	11/01/13	05/2014	04/11/14
28:03	08/01/13	07/11/13	08/16/13	09/30/13	10/21/13	12/01/13	05/2014	04/28/14
28:04	08/15/13	07/25/13	08/30/13	10/14/13	10/21/13	12/01/13	05/2014	05/12/14
28:05	09/03/13	08/12/13	09/18/13	11/04/13	11/20/13	01/01/14	05/2014	05/31/14
28:06	09/16/13	08/23/13	10/01/13	11/15/13	11/20/13	01/01/14	05/2014	06/13/14
28:07	10/01/13	09/10/13	10/16/13	12/02/13	12/20/13	02/01/14	05/2014	06/28/14
28:08	10/15/13	09/24/13	10/30/13	12/16/13	12/20/13	02/01/14	05/2014	07/12/14
28:09	11/01/13	10/11/13	11/16/13	12/31/13	01/21/14	03/01/14	05/2014	07/29/14
28:10	11/15/13	10/24/13	11/30/13	01/14/14	01/21/14	03/01/14	05/2014	08/12/14
28:11	12/02/13	11/06/13	12/17/13	01/31/14	02/20/14	04/01/14	05/2014	08/29/14
28:12	12/16/13	11/21/13	12/31/13	02/14/14	02/20/14	04/01/14	05/2014	09/12/14

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.

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

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

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

CHAPTER 03 - MARINE FISHERIES COMMISSION

Notice is hereby given in accordance with G.S. 150B-21.2 that the NC Marine Fisheries Commission intends to adopt the rules cited as 15A NCAC 03K .0110; 03M .0521; 03R .0118; amend the rules cited as 15A NCAC 03I .0101; 03J .0104 and .0301; 03L .0201-.0205; 03M .0103; 03O .0503; 03Q .0202; 03R .0107 and .0116; and repeal the rules cited as 15A NCAC 03L .0206 and .0209; 03M .0206.

Agency obtained G.S. 150B-19.1 certification:

- ☒ **OSBM certified on:** May 8, 2013; May 13, 2013; May 15, 2013; and May 28, 2013
- ☐ **RRC certified on:**
- ☐ **Not Required**

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://portal.ncdenr.org/web/mf/mfc-proposed-rules-links>

Fiscal Note if prepared posted at:

http://www.osbm.state.nc.us/files/pdf_files/DENR05082013.pdf;
http://www.osbm.state.nc.us/files/pdf_files/DENR05082013_2.pdf;
http://www.osbm.state.nc.us/files/pdf_files/DENR05132013.pdf;
http://www.osbm.state.nc.us/files/pdf_files/DENR05152013.pdf;
http://www.osbm.state.nc.us/files/pdf_files/DENR05152013_2.pdf;
http://www.osbm.state.nc.us/files/pdf_files/DENR05152013_3.pdf;
 f; AND
http://www.osbm.state.nc.us/files/pdf_files/DENR05282013.pdf.

Proposed Effective Date: April 1, 2014

Public Hearing:

Date: September 17, 2013

Time: 6:00 p.m.

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

Date: September 18, 2013

Time: 6:00 p.m.

Location: Department of Environment and Natural Resources, 943 Washington Square Mall, Highway 17, Washington, NC 27889

Date: September 19, 2013

Time: 6:00 p.m.

Location: Department of Environment and Natural Resources, 127 Cardinal Drive, Wilmington, NC 28405

Reason for Proposed Action:

15A NCAC 03I .0101 DEFINITIONS – Proposed amendments add definitions for educational and scientific institutions to clarify those entities that can receive Scientific and Educational Activity Permits. An additional amendment removes the location of a division office that closed from the definition of "Office of the Division".

15A NCAC 03J .0104 TRAWL NETS – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments correct a rule reference that re-establishes the Fisheries Director's proclamation authority to allow peeler trawling in areas of Core and Back sounds.

15A NCAC 03J .0301 POTS – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments redefine criteria from mesh size to bait requirements for escape ring exemptions for the taking of peeler crabs with pots. Proposed amendments also broaden the Fisheries Director's proclamation authority to implement more restrictive measures for the use of pots and to include the restrictions of means and methods in proclamations for managing the use of escape rings for the harvest of blue crabs. Additional proposed amendments move long-standing escape ring exemptions for the taking of mature female blue crabs with pots from proclamations into rule, as described in proposed adopted Rule 15A NCAC 03R .0118, reducing the exempted area for the Pamlico Sound Outer Banks region, but providing more clearly delineated boundaries for this area and the Newport River area.

15A NCAC 03K .0110 PUBLIC HEALTH AND CONTROL OF SHELLFISH HANDLING – This rule is proposed for adoption to establish authority for the Fisheries Director to implement requirements of the National Shellfish Sanitation Program Guide for the Control of Molluscan Shellfish, Section II (Model Ordinance) via proclamation. The Model Ordinance establishes minimum requirements that states must meet for the sanitary control of molluscan shellfish.

15A NCAC 03L .0201 SIZE LIMIT AND CULLING TOLERANCE – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments clarify the exemptions to the five-inch minimum size limit, allowable culling tolerance, and separation requirements for the harvest of various categories of blue crabs. Proposed amendments also establish proclamation authority for the Fisheries Director to manage the blue crab fishery.

15A NCAC 03L .0202 CRAB TRAWLING – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments incorporate a long-standing proclamation that establishes a dividing line in Pamlico Sound for the taking of hard blue crabs using trawls of certain mesh sizes into rule. Crab trawls west of the line are required to have a minimum

mesh length of four inches while a minimum mesh length of three inches is required in the remainder of coastal waters; there is no change in requirements for fishermen.

15A NCAC 03L .0203 CRAB DREDGING – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments clarify the intent of crab dredging restrictions to facilitate consistent enforcement. Proposed amendments also establish proclamation authority for the Fisheries Director to manage the blue crab fishery.

15A NCAC 03L .0204 CRAB POTS – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments establish proclamation authority for the Fisheries Director to require the use of devices to exclude diamondback terrapins from crab pots and to specify areas, times, and means and methods for the use of the devices. Additional proposed amendments add a cross-reference to a rule containing a possible exception to crab pot regulations.

15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments establish proclamation authority for the Fisheries Director to designate additional area as crab spawning sanctuary and extend the time that harvest restrictions are in place for all crab spawning sanctuaries. Additional proposed amendments clarify existing restrictions.

15A NCAC 03L .0206 PEELER CRABS – In accordance with the N.C. Blue Crab Fishery Management Plan, this rule is proposed for repeal; the regulations will be relocated to rules 15A NCAC 03J .0301 and 03L .0201 for better organization.

15A NCAC 03L .0209 RECREATIONAL HARVEST OF CRABS – In accordance with the N.C. Blue Crab Fishery Management Plan, this rule is proposed for repeal; the regulations will be relocated to Rule 03L .0201 for better organization.

15A NCAC 03M .0103 MINIMUM SIZE LIMITS – Proposed amendments clarify exemptions to the general four-inch size limit on finfish. Additional amendments clarify the rule applies to finfish, instead of to fish.

15A NCAC 03M .0206 HYBRID STRIPED BASS CULTURE – In accordance with the Rules Modification and Improvement Program as described in G.S. 150B-19.2, this rule is proposed for repeal; the referenced Wildlife Resources Commission rules (15A NCAC 10H Section .0700) were repealed in 1996 and the initial intent of 15A NCAC 03M .0206 is no longer required.

15A NCAC 03M .0521 SHEEPSHEAD – This rule is proposed for adoption to provide the Fisheries Director proclamation authority to manage sheepshead. Sheepshead were previously managed through 15A NCAC 03M .0512, Compliance with Fishery Management Plans. The authority to manage through this rule ended when the species was removed from the South Atlantic Fishery Management Council's Snapper Grouper Complex.

15A NCAC 03O .0503 PERMIT CONDITIONS; SPECIFIC – Proposed amendments clarify the organizations that are eligible to receive Scientific and Educational Activity permits from the Division of Marine Fisheries, expands the activities that can be allowed under the permit and clarifies the conditions for issuance and reporting requirements. A

clarification is also made on the educational institutions that may receive Coastal Recreational Fishing License Exemption permits. Additional amendments correct the name of a fishery management plan and remove incorrect contact information for an agency.

15A NCAC 03Q .0202 DESCRIPTIVE BOUNDARIES FOR COASTAL-JOINT-INLAND WATERS – Proposed amendments correct an error in the Inland/Coastal Waters boundary line in Queens Creek, Onslow County that was discovered during a review of boundary coordinates. Additional amendments correct inconsistent punctuation and spacing and also update the name of a canal in Brunswick County.

15A NCAC 03R .0107 DESIGNATED POT AREAS – In accordance with the N.C. Blue Crab Fishery Management Plan, proposed amendments reclassify eight non-pot areas in the Pungo River to allow the use of pots for the harvest of blue crabs. Proposed amendments also incorporate a long-standing proclamation for a closure at the mouth of lower Broad Creek (Neuse River) to the use of pots between June 1 and November 30 into rule, creating no change in those requirements. Additional proposed amendments modify coordinate points so they are listed consistently, and to square off certain areas in the Pamlico River to increase public clarity of where the use of pots is permitted and for ease of enforcement.

15A NCAC 03R .0116 DESIGNATED SEED OYSTER MANAGEMENT AREAS – In response to a petition for rulemaking approved by the N.C. Marine Fisheries Commission, proposed amendments add two seed oyster management areas in the vicinity of New River Inlet, Onslow County to reduce travel time and costs compared to using existing seed oyster management areas in Carteret and Pender counties.

15A NCAC 03R .0118 EXEMPTED CRAB POT ESCAPE RING AREAS – In accordance with the N.C. Blue Crab Fishery Management Plan, this rule is proposed for adoption to provide clearly recognized and delineated boundaries for the Pamlico Sound and Newport River areas for crab pot escape ring exemptions provided in Rule 15A NCAC 03J .0301.

Comments may be submitted to: Catherine Blum, P.O. Box 769, Morehead City, NC 28557; phone (252) 808-8014; fax (252) 726-0254; email catherine.blum@ncdenr.gov

Comment period ends: September 30, 2013

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** (15A NCAC 03K .0110)
- ☐ **Environmental permitting of DOT affected**
- ☐ **Analysis submitted to Board of Transportation**
- ☐ **Local funds affected**
- ☐ **Date submitted to OSBM:**
- ☒ **Substantial economic impact** ($\geq \$500,000$)
("POSSIBLY": 15A NCAC 03J .0104, .0301; 03L .0201-.0206, .0209; 03R .0107, .0118)
- ☒ **Approved by OSBM: ALL 19 PROPOSED RULES**
- ☒ **No fiscal note required by G.S. 150B-21.4** (15A NCAC 03I .0101; 03M .0103, .0206, .0521; 03O .0503; 03Q .0202; 03R .0116)

SUBCHAPTER 03I - GENERAL RULES

SECTION .0100 - GENERAL RULES

15A NCAC 03I .0101 DEFINITIONS

All definitions set out in G.S. 113, Subchapter IV and the following additional terms apply to this Chapter:

- (1) Enforcement and management terms:
 - (a) Commercial Quota. Total quantity of fish allocated for harvest by commercial fishing operations.
 - (b) Educational Institution. A college, university or community college accredited by an accrediting agency recognized by the U.S. Department of ~~Education~~. Education; an Environmental Education Center certified by the N.C. Department of Environment and Natural Resources Office of Environmental Education and Public Affairs; or a zoo or aquarium certified by the Association of Zoos and Aquariums.
 - (c) Internal Coastal Waters or Internal Waters. All coastal fishing waters except the Atlantic Ocean.
 - (d) Length of finfish.
 - (i) Curved fork length. A length determined by measuring along a line, tracing the contour of the body from the tip of the upper jaw to the middle of the fork in the caudal (tail) fin.
 - (ii) Fork length. A length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the middle of the fork in the caudal (tail) fin, except

that fork length for billfish is measured from the tip of the lower jaw to the middle of the fork of the caudal (tail) fin.

- (iii) Pectoral fin curved fork length. A length of a beheaded fish from the dorsal insertion of the pectoral fin to the fork of the tail measured along the contour of the body in a line that runs along the top of the pectoral fin and the top of the caudal keel.
- (iv) Total length. A length determined by measuring along a straight line the distance from the tip of the snout with the mouth closed to the tip of the compressed caudal (tail) fin.
- (e) Recreational Possession Limit. Restrictions on size, quantity, season, time period, area, means, and methods where take or possession is for a recreational purpose.
- (f) Recreational Quota. Total quantity of fish allocated for harvest for a recreational purpose.
- (g) Regular Closed Oyster Season. March 31 through October 15, unless amended by the Fisheries Director through proclamation authority.
- (h) Scientific Institution. One of the following entities:
 - (i) An educational institution as defined in this Item;
 - (ii) A state or federal agency charged with the management of marine or estuarine resources; or
 - (iii) A professional organization or secondary school working under the direction of, or in compliance with mandates from, the entities listed in Subitems (h)(i) and (ii) of this Item.
- ~~(h)(i)~~ Seed Oyster Management Area. An open harvest area that, by reason of poor growth characteristics, predation rates, overcrowding or other factors, experiences poor utilization of oyster populations for direct harvest and sale to licensed dealers and is designated by the Marine Fisheries Commission as a source of seed for public and private oyster culture.

- (2) Fishing Activities:
- (a) Aquaculture operation. An operation that produces artificially propagated stocks of marine or estuarine resources or obtains such stocks from permitted sources for the purpose of rearing in a controlled environment. A controlled environment provides and maintains throughout the rearing process one or more of the following:
 - (i) food,
 - (ii) predator protection,
 - (iii) salinity,
 - (iv) temperature controls, or
 - (v) water circulation,
 utilizing technology not found in the natural environment.
 - (b) Attended. Being in a vessel, in the water or on the shore and immediately available to work the gear and within 100 yards of any gear in use by that person at all times. Attended does not include being in a building or structure.
 - (c) Blue Crab Shedding. The process whereby a blue crab emerges soft from its former hard exoskeleton. A shedding operation is any operation that holds peeler crabs in a controlled environment. A controlled environment provides and maintains throughout the shedding process one or more of the following:
 - (i) food,
 - (ii) predator protection,
 - (iii) salinity,
 - (iv) temperature controls, or
 - (v) water circulation,
 utilizing technology not found in the natural environment. A shedding operation does not include transporting pink or red-line peeler crabs to a permitted shedding operation.
 - (d) Depuration. Purification or the removal of adulteration from live oysters, clams, and mussels by any natural or artificially controlled means.
 - (e) Long Haul Operations. Fishing a seine towed between two boats.
 - (f) Peeler Crab. A blue crab that has a soft shell developing under a hard shell and having a white, pink, or red-line or rim on the outer edge of the back fin or flipper.
 - (g) Possess. Any actual or constructive holding whether under claim of ownership or not.
 - (h) Recreational Purpose. A fishing activity that is not a commercial fishing operation as defined in G.S. 113-168.
 - (i) Shellfish marketing from leases and franchises. The harvest of oysters, clams, scallops, mussels, from privately held shellfish bottoms and lawful sale of those shellfish to the public at large or to a licensed shellfish dealer.
 - (j) Shellfish planting effort on leases and franchises. The process of obtaining authorized cultch materials, seed shellfish, and polluted shellfish stocks and the placement of those materials on privately held shellfish bottoms for increased shellfish production.
 - (k) Shellfish production on leases and franchises:
 - (i) The culture of oysters, clams, scallops, and mussels, on shellfish leases and franchises from a sublegal harvest size to a marketable size.
 - (ii) The transplanting (relay) of oysters, clams, scallops and mussels from areas closed due to pollution to shellfish leases and franchises in open waters and the natural cleansing of those shellfish.
 - (l) Swipe Net Operations. Fishing a seine towed by one boat.
 - (m) Transport. Ship, carry, or cause to be carried or moved by public or private carrier by land, sea, or air.
 - (n) Use. Employ, set, operate, or permit to be operated or employed.
- (3) Gear:
- (a) Bunt Net. The last encircling net of a long haul or swipe net operation constructed of small mesh webbing. The bunt net is used to form a pen or pound from which the catch is dipped or bailed.
 - (b) Channel Net. A net used to take shrimp which is anchored or attached to the bottom at both ends or with one end anchored or attached to the bottom and the other end attached to a boat.
 - (c) Commercial Fishing Equipment or Gear. All fishing equipment used in coastal fishing waters except:
 - (i) Cast nets;
 - (ii) Collapsible crab traps, a trap used for taking crabs with

- the largest open dimension no larger than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved from or lowered to the bottom;
- (iii) Dip nets or scoops having a handle not more than eight feet in length and a hoop or frame to which the net is attached not exceeding 60 inches along the perimeter;
 - (iv) Gigs or other pointed implements which are propelled by hand, whether or not the implement remains in the hand;
 - (v) Hand operated rakes no more than 12 inches wide and weighing no more than six pounds and hand operated tongs;
 - (vi) Hook-and-line and bait-and-line equipment other than multiple-hook or multiple-bait trotline;
 - (vii) Landing nets used to assist in taking fish when the initial and primary method of taking is by the use of hook and line;
 - (viii) Minnow traps when no more than two are in use;
 - (ix) Seines less than 30 feet in length;
 - (x) Spears, Hawaiian slings or similar devices, which propel pointed implements by mechanical means, including elastic tubing or bands, pressurized gas or similar means.
- (d) Corkline. The support structure a net is attached to that is nearest to the water surface when in use. Corkline length is measured from the outer most mesh knot at one end of the corkline following along the line to the outer most mesh knot at the opposite end of the corkline.
 - (e) Dredge. A device towed by engine power consisting of a frame, tooth bar or smooth bar, and catchbag used in the harvest of oysters, clams, crabs, scallops, or conchs.
 - (f) Fixed or stationary net. A net anchored or staked to the bottom, or
- (g) some structure attached to the bottom, at both ends of the net.
 - Fyke Net. An entrapment net supported by a series of internal or external hoops or frames, with one or more lead or leaders that guide fish to the net mouth. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
 - (h) Gill Net. A net set vertically in the water to capture fish by entanglement by the gills in its mesh as a result of net design, construction, mesh size, webbing diameter or method in which it is used.
 - (i) Headrope. The support structure for the mesh or webbing of a trawl that is nearest to the water surface when in use. Headrope length is measured from the outer most mesh knot at one end of the headrope following along the line to the outer most mesh knot at the opposite end of the headrope.
 - (j) Hoop Net. An entrapment net supported by a series of internal or external hoops or frames. The net has one or more internal funnel-shaped openings with tapered ends directed inward from the mouth, through which fish enter the enclosure. The portion of the net designed to hold or trap the fish is completely enclosed in mesh or webbing, except for the openings for fish passage into or out of the net (funnel area).
 - (k) Lead. A mesh or webbing structure consisting of nylon, monofilament, plastic, wire or similar material set vertically in the water, held in place by stakes or anchors to guide fish into an enclosure. Lead length is measured from the outer most end of the lead along the top or bottom line, whichever is longer, to the opposite end of the lead.
 - (l) Mechanical methods for clamming. Dredges, hydraulic clam dredges, stick rakes and other rakes when towed by engine power, patent tongs, kicking with propellers or deflector plates with or without trawls, and any

- other method that utilizes mechanical means to harvest clams.
- (m) Mechanical methods for oystering. Dredges, patent tongs, stick rakes and other rakes when towed by engine power and any other method that utilizes mechanical means to harvest oysters.
- (n) Mesh Length. The diagonal distance from the inside of one knot to the outside of the other knot, when the net is stretched hand-tight.
- (o) Pound Net Set. A fish trap consisting of a holding pen, one or more enclosures, lead or leaders, and stakes or anchors used to support the trap. The lead(s), enclosures, and holding pen are not conical, nor are they supported by hoops or frames.
- (p) Purse Gill Nets. Any gill net used to encircle fish when the net is closed by the use of a purse line through rings located along the top or bottom line or elsewhere on such net.
- (q) Seine. A net set vertically in the water and pulled by hand or power to capture fish by encirclement and confining fish within itself or against another net, the shore or bank as a result of net design, construction, mesh size, webbing diameter, or method in which it is used.
- (4) Fish habitat areas. The estuarine and marine areas that support juvenile and adult populations of fish species, as well as forage species utilized in the food chain. Fish habitats as used in this definition, are vital for portions of the entire life cycle, including the early growth and development of fish species. Fish habitats in all coastal fishing waters, as determined through marine and estuarine survey sampling, include:
 - (a) Anadromous fish nursery areas. Those areas in the riverine and estuarine systems utilized by post-larval and later juvenile anadromous fish.
 - (b) Anadromous fish spawning areas. Those areas where evidence of spawning of anadromous fish has been documented in Division sampling records through direct observation of spawning, capture of running ripe females, or capture of eggs or early larvae.
 - (c) Coral:
 - (i) Fire corals and hydrocorals (Class Hydrozoa);
 - (ii) Stony corals and black corals (Class Anthozoa, Subclass Scleractinia); or
 - (iii) Octocorals; Gorgonian corals (Class Anthozoa, Subclass Octocorallia), which include sea fans (*Gorgonia* sp.), sea whips (*Leptogorgia* sp. and *Lophogorgia* sp.), and sea pansies (*Renilla* sp.).
 - (d) Intertidal Oyster Bed. A formation, regardless of size or shape, formed of shell and live oysters of varying density.
 - (e) Live rock. Living marine organisms or an assemblage thereof attached to a hard substrate, excluding mollusk shells, but including dead coral or rock. Living marine organisms associated with hard bottoms, banks, reefs, and live rock include:
 - (i) Coralline algae (Division Rhodophyta);
 - (ii) *Acetabularia* sp., mermaid's fan and cups (*Udotea* sp.), watercress (*Halimeda* sp.), green feather, green grape algae (*Caulerpa* sp.) (Division Chlorophyta);
 - (iii) *Sargassum* sp., *Dictyopteris* sp., *Zonaria* sp. (Division Phaeophyta);
 - (iv) Sponges (Phylum Porifera);
 - (v) Hard and soft corals, sea anemones (Phylum Cnidaria), including fire corals (Class Hydrozoa), and Gorgonians, whip corals, sea pansies, anemones, *Solengastrea* (Class Anthozoa);
 - (vi) Bryozoans (Phylum Bryozoa);
 - (vii) Tube worms (Phylum Annelida), fan worms (*Sabellidae*); feather duster and Christmas treeworms (*Serpulidae*), and sand castle worms (*Sabellaridae*);
 - (viii) Mussel banks (Phylum Mollusca: Gastropoda); and
 - (ix) Acorn barnacles (Arthropoda: Crustacea: *Semibalanus* sp.).
 - (f) Nursery areas. Those areas in which for reasons such as food, cover, bottom type, salinity, temperature and other factors, young finfish and

crustaceans spend the major portion of their initial growing season. Primary nursery areas are those areas in the estuarine system where initial post-larval development takes place. These are areas where populations are uniformly early juveniles. Secondary nursery areas are those areas in the estuarine system where later juvenile development takes place. Populations are composed of developing sub-adults of similar size which have migrated from an upstream primary nursery area to the secondary nursery area located in the middle portion of the estuarine system.

- (g) Shellfish producing habitats. Those areas in which shellfish, such as clams, oysters, scallops, mussels, and whelks, whether historically or currently, reproduce and survive because of such favorable conditions as bottom type, salinity, currents, cover, and cultch. Included are those shellfish producing areas closed to shellfish harvest due to pollution.
- (h) Strategic Habitat Areas. Locations of individual fish habitats or systems of habitats that provide exceptional habitat functions or that are particularly at risk due to imminent threats, vulnerability, or rarity.
- (i) Submerged aquatic vegetation (SAV) habitat. Submerged lands that:
 - (i) are vegetated with one or more species of submerged aquatic vegetation including bushy pondweed or southern naiad (*Najas guadalupensis*), coontail (*Ceratophyllum demersum*), eelgrass (*Zostera marina*), horned pondweed (*Zannichellia palustris*), naiads (*Najas* spp.), redhead grass (*Potamogeton perfoliatus*), sago pondweed (*Stuckenia pectinata*, formerly *Potamogeton pectinatus*), shoalgrass (*Halodule wrightii*), slender pondweed (*Potamogeton pusillus*), water stargrass (*Heteranthera dubia*), water starwort (*Callitriche heterophylla*), waterweeds (*Elodea* spp.), widgeongrass (*Ruppia maritima*) and wild

celery (*Vallisneria americana*). These areas may be identified by the presence of above-ground leaves, below-ground rhizomes, or reproductive structures associated with one or more SAV species and include the sediment within these areas; or

- (ii) have been vegetated by one or more of the species identified in Sub-item (4)(i)(i) of this Rule within the past 10 annual growing seasons and that meet the average physical requirements of water depth (six feet or less), average light availability (secchi depth of one foot or more), and limited wave exposure that characterize the environment suitable for growth of SAV. The past presence of SAV may be demonstrated by aerial photography, SAV survey, map, or other documentation. An extension of the past 10 annual growing seasons criteria may be considered when average environmental conditions are altered by drought, rainfall, or storm force winds.

This habitat occurs in both subtidal and intertidal zones and may occur in isolated patches or cover extensive areas. In defining SAV habitat, the Marine Fisheries Commission recognizes the Aquatic Weed Control Act of 1991 (G.S. 113A-220 et. seq.) and does not intend the submerged aquatic vegetation definition, or rules 15A NCAC 03K .0304, .0404 and 03I .0101, to apply to or conflict with the non-development control activities authorized by that Act.

- (5) Licenses, permits, leases and franchises, and record keeping:
 - (a) Assignment. Temporary transferal to another person of privileges under a license for which assignment is permitted. The person assigning the license delegates the privileges permitted under the license to be exercised by the assignee, but retains

- the power to revoke the assignment at any time, is still the responsible party for the license.
- (b) Designee. Any person who is under the direct control of the permittee or who is employed by or under contract to the permittee for the purposes authorized by the permit.
 - (c) For Hire Vessel. As defined by G.S. 113-174 when the vessel is fishing in state waters or when the vessel originates from or returns to a North Carolina port.
 - (d) Holder. A person who has been lawfully issued in their name a license, permit, franchise, lease, or assignment.
 - (e) Land:
 - (i) For commercial fishing operations, when fish reach the shore or a structure connected to the shore.
 - (ii) For purposes of trip tickets, when fish reach a licensed seafood dealer, or where the fisherman is the dealer, when the fish reaches the shore or a structure connected to the shore.
 - (iii) For recreational fishing operations, when fish are retained in possession by the fisherman.
 - (f) Licensee. Any person holding a valid license from the Department to take or deal in marine fisheries resources.
 - (g) Master. Captain of a vessel or one who commands and has control, authority, or power over a vessel.
 - (h) New fish dealer. Any fish dealer making application for a fish dealer license who did not possess a valid dealer license for the previous license year in that name or ocean pier license in that name on June 30, 1999. For purposes of license issuance, adding new categories to an existing fish dealers license does not constitute a new dealer.
 - (i) North Carolina Trip Ticket. Paper forms provided by the Division, and electronic data files generated from software provided by the Division, for the reporting of fisheries statistics, which include quantity, method and location of harvest.
 - (j) Office of the Division. Physical locations of the Division conducting license and permit transactions in Wilmington, Washington, Morehead City, ~~Columbia~~, Roanoke Island and Elizabeth City, North Carolina. Other businesses or entities designated by the Secretary to issue Recreational Commercial Gear Licenses or Coastal Recreational Fishing Licenses are not considered Offices of the Division.
 - (k) Responsible party. Person who coordinates, supervises or otherwise directs operations of a business entity, such as a corporate officer or executive level supervisor of business operations and the person responsible for use of the issued license in compliance with applicable statutes and rules.
 - (l) Tournament Organizer. The person who coordinates, supervises or otherwise directs a recreational fishing tournament and is the holder of the Recreational Fishing Tournament License.
 - (m) Transaction. Act of doing business such that fish are sold, offered for sale, exchanged, bartered, distributed or landed.
 - (n) Transfer. Permanent transferal to another person of privileges under a license for which transfer is permitted. The person transferring the license retains no rights or interest under the license transferred.

Authority G.S. 113-134; 113-174; 143B-289.52.

SUBCHAPTER 03J - NETS, POTS, DREDGES, AND OTHER FISHING DEVICES

SECTION .0100 - NET RULES, GENERAL

15A NCAC 03J .0104 TRAWL NETS

- (a) It is unlawful to possess aboard a vessel while using a trawl in internal waters more than 500 pounds of finfish from December 1 through February 28 and 1,000 pounds of finfish from March 1 through November 30.
- (b) It is unlawful to use trawl nets:
 - (1) In internal coastal waters, from 9:00 p.m. on Friday through 5:00 p.m. on Sunday, except that in the areas listed in Subparagraph (b)(5) of this Rule, trawling is prohibited from December 1 through February 28 from one hour after sunset on Friday to one hour before sunrise on ~~Monday~~. Monday;
 - (2) For the taking of oysters;
 - (3) In Albemarle Sound, Currituck Sound, and their tributaries, west of a line beginning on the south shore of Long Point at a point 36°

02.4910' N - 75° 44.2140' W; running southerly to the north shore on Roanoke Island to a point 35° 56.3302' N - 75° 43.1409' W; running northwesterly to Caroon Point to a point 35° 57.2255' N - 75° 48.3324' W;

- (4) In the areas described in 15A NCAC 03R .0106, except that the Fisheries Director may, by proclamation, open the area designated in Item ~~(6)(1)~~ of 15A NCAC 03R .0106 to peeler crab trawling;

- (5) From December 1 through February 28 from one hour after sunset to one hour before sunrise in the following areas:

(A) In Pungo River, north of a line beginning on Currituck Point at a point 35° 24.5833' N-76° 32.3166' W; running southwesterly to Wades Point to a point 35° 23.3062' N-76° 34.5135' W;

(B) In Pamlico River, west of a line beginning on Wades Point at a point 35° 23.3062' N - 76° 34.5135' W; running southwesterly to Fulford Point to a point 35° 19.8667' N - 76° 35.9333' W;

(C) In Bay River, west of a line beginning on Bay Point at a point 35° 11.0858' N - 76° 31.6155' W; running southerly to Maw Point to a point 35° 09.0214' N - 76° 32.2593' W;

(D) In Neuse River, west of a line beginning on the Minnesott side of the Neuse River Ferry at a point 34° 57.9116' N - 76° 48.2240' W; running southerly to the Cherry Branch side of the Neuse River Ferry to a point 34° 56.3658' N - 76° 48.7110' W; and

(E) In New River, all waters upstream of the N.C. Highway 172 Bridge when opened by proclamation; and

- (6) In designated pot areas opened to the use of pots by 15A NCAC 03J .0301(a)(2) and described in 15A NCAC 03R .0107(a)(5), (a)(6), (a)(7), (a)(8) and (a)(9) within an area bound by the shoreline to the depth of six feet.

(c) Minimum mesh sizes for shrimp and crab trawls are presented in 15A NCAC 03L .0103 and .0202.

(d) The Fisheries Director may, with prior consent of the Marine Fisheries Commission, by proclamation, require bycatch reduction devices or codend modifications in trawl nets to reduce the catch of finfish that do not meet size limits or are unmarketable as individual foodfish by reason of size.

(e) It is unlawful to use shrimp trawls for recreational purposes unless the trawl is marked by attaching to the codend (tailbag), one floating buoy, any shade of hot pink in color, which shall be of solid foam or other solid buoyant material no less than five inches in diameter and no less than five inches in length. The owner shall always be identified on the buoy by using an engraved buoy or by attaching engraved metal or plastic tags to

the buoy. Such identification shall include owner's last name and initials and if a vessel is used, one of the following:

- (1) Gear owner's current motor boat registration number; or
- (2) Owner's U.S. vessel documentation name.

(f) It is unlawful to use shrimp trawls for the taking of blue crabs in internal waters, except that it shall be permissible to take or possess blue crabs incidental to shrimp trawling in accordance with the following limitations:

- (1) For individuals using shrimp trawls authorized by a Recreational Commercial Gear License, 50 blue crabs, not to exceed 100 blue crabs if two or more Recreational Commercial Gear License holders are on board.

- (2) For commercial operations, crabs may be taken incidental to lawful shrimp trawl operations provided that the weight of the crabs shall not exceed:

- (A) 50 percent of the total weight of the combined crab and shrimp catch; or
- (B) 300 pounds, whichever is greater.

(g) The Fisheries Director may, by proclamation, close any area to trawling for specific time periods in order to secure compliance with this Rule.

Authority G.S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52.

SECTION .0300 - POTS, DREDGES, AND OTHER FISHING DEVICES

15A NCAC 03J .0301 POTS

(a) It is unlawful to use pots except during time periods and in areas specified herein:

- (1) In Coastal Fishing Waters from December 1 through May 31, except that all pots shall be removed from internal waters from January 15 through February 7. Fish pots upstream of U.S. 17 Bridge across Chowan River and upstream of a line across the mouth of Roanoke, Cashie, Middle and Eastmost Rivers to the Highway 258 Bridge are exempt from the January 15 through February 7 removal requirement. The Fisheries Director may, by proclamation, reopen various waters to the use of pots after January 19 if it is determined that such waters are free of pots.

- (2) From June 1 through November 30, north and east of the Highway 58 Bridge at Emerald Isle:

(A) In areas described in 15A NCAC 03R .0107(a);

(B) To allow for the variable spatial distribution of crustacea and finfish, the Fisheries Director may, by proclamation, specify time periods for or designate the areas described in 15A NCAC 03R .0107(b); or any part thereof, for the use of pots.

- (3) From May 1 through November 30 in the Atlantic Ocean and west and south of the Highway 58 Bridge at Emerald Isle in areas and during time periods designated by the Fisheries Director by proclamation.

The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take blue crabs.

(b) It is unlawful to use pots:

- (1) in any navigation channel marked by State or Federal agencies; or
- (2) in any turning basin maintained and marked by the North Carolina Ferry Division.

(c) It is unlawful to use pots in a commercial fishing operation unless each pot is 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 or hot pink or any combination of colors that include yellow or hot pink. The owner shall always 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) gear owner's current motorboat registration number; or
- (2) gear owner's U.S. vessel documentation name; or
- (3) gear owner's last name and initials.

(d) Pots attached to shore or a pier shall be exempt from Subparagraphs (a)(2) and (a)(3) of this Rule.

(e) It is unlawful to use shrimp pots with mesh lengths smaller than one and one-fourth inches stretch or ~~five-eighths inch~~ five-eighths inch bar.

(f) It is unlawful to use eel 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 ~~4~~ 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, except that not more than two eel pots per fishing operation with a mesh of any size may be used to take eels for bait.

(g) It is unlawful to use crab pots in coastal fishing waters unless each pot contains no less than two unobstructed escape rings that are at least ~~2-5/16~~ two and five-sixteenths inches inside diameter and located in the opposite outside panels of the upper chamber of the pot. ~~Peeler pots with a mesh size less than 1 1/2 inches shall be pot, except the following are exempt from the escape ring requirements.~~ requirements:

- (1) Unbaited pots;
- (2) Pots baited with a male crab; and
- (3) Pots set in areas and during time periods described in 15A NCAC 03R .0118.

(h) The Fisheries Director may, by proclamation, exempt the escape ring requirement requirements described in Paragraph (g) of this Rule in order to allow the harvest of peeler crabs or mature female crabs and may impose any or all of the following restrictions:

- (1) Specify areas, and areas;
- (2) Specify time, time periods; and
- (3) Specify means and methods.

~~(h)(i)~~ It is unlawful to use more than 150 crab pots per vessel in Newport River.

~~(i)(j)~~ It is unlawful to remove crab pots from the water or remove crabs from crab pots between one hour after sunset and one hour before sunrise.

~~(j)(k)~~ User Conflicts:

- (1) In order to address user conflicts, the Fisheries Director may by proclamation impose any or all of the following restrictions:

- (A) Specify time period; areas;
- (B) Specify areas; and time periods; and
- (C) Specify means and methods.

The Fisheries Director shall hold a public meeting in the affected area before issuance of such proclamation.

- (2) Any person(s) desiring user conflict resolution may make such request in writing addressed to the Director of the Division of Marine Fisheries. Such requests shall contain the following information:

- (A) A map of the affected area including an inset vicinity map showing the location of the area with detail sufficient to permit on-site identification and location;
- (B) Identification of the user conflict causing a need for user conflict resolution;
- (C) Recommended solution for resolving user conflict; and
- (D) Name and address of the person(s) requesting user conflict resolution.

- (3) Upon the requestor's demonstration of a user conflict to the Fisheries Director and within 90 days of the receipt of the information required in Subparagraph ~~(j)(2)~~ (k)(2) of this Rule, the Fisheries Director shall issue a public notice of intent to address a user conflict. A public meeting shall be held in the area of the user conflict. The requestor shall present his or her request at the public meeting, and other parties affected may participate.

- (4) The Fisheries Director shall deny the request or submit a proclamation that addresses the results of the public meeting to the Marine Fisheries Commission for their approval.

- (5) Proclamations issued under Subparagraph ~~(j)(4)~~ (k)(1) of this Rule shall suspend appropriate rules or portions of rules under 15A NCAC 03R .0107 as specified in the proclamation. The provisions of 15A NCAC 03I .0102 terminating suspension of a rule as of the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under Subparagraph ~~(j)(4)~~ (k)(1) of this Rule.

~~(k)(l)~~ It is unlawful to use pots to take crabs unless the line connecting the pot to the buoy is non-floating.

~~(4)(m)~~ It is unlawful to use pots with leads or leaders to take shrimp. For the purpose of this Rule, leads or leaders are defined as any fixed or stationary net or device used to direct fish into any gear used to capture fish. Any device with leads or leaders used to capture fish is not a pot.

Authority G. S. 113-134; 113-173; 113-182; 113-221.1; 143B-289.52.

SUBCHAPTER 03K - OYSTERS, CLAMS, SCALLOPS AND MUSSELS

SECTION .0100 - SHELLFISH, GENERAL

15A NCAC 03K .0110 PUBLIC HEALTH AND CONTROL OF OYSTERS, CLAMS, SCALLOPS AND MUSSELS

(a) To protect public health, the Fisheries Director may, by proclamation, impose any or all of the following restrictions on oysters, clams, scallops and mussels to ensure the sale or distribution of shellfish from approved sources and ensure shellfish have not been adulterated or mislabeled during cultivation, harvesting, processing, storage and transport, in compliance with the National Shellfish Sanitation Program Guide for Control of Molluscan Shellfish, Section II: Model Ordinance:

- (1) Specify time and temperature controls;
- (2) Specify sanitation control procedures as specified in 21 Code of Federal Regulations (CFR) Part 123.11;
- (3) Specify Hazard Analysis Critical Control Point (HACCP) requirements as specified in 21 CFR Part:
 - (A) 123.3 Definitions;
 - (B) 123.6 HACCP Plan;
 - (C) 123.7 Corrective Actions;
 - (D) 123.8 Verification;
 - (E) 123.9 Records; and
 - (F) 123.28 Source Controls;
- (4) Specify tagging and labeling requirements;
- (5) Establish training requirements for shellfish harvesters and certified shellfish dealers;
- (6) Require sales records and collection and submission of information to provide a mechanism for shellfish product to be traced back to the water body of origin; and
- (7) Require implicated product recall and specify recall procedures.

(b) Proclamations issued under this Rule shall suspend appropriate rules or portions of rules under the authority of the Marine Fisheries Commission as specified in the proclamation. The provisions of 15A NCAC 03I .0102 terminating suspension of a rule as of the next Marine Fisheries Commission meeting and requiring review by the Marine Fisheries Commission at the next meeting shall not apply to proclamations issued under this Rule.

Authority G.S. 113-134; 113-182; 113-201; 113-221.1; 113-221.2; 143B-289.52.

SUBCHAPTER 03L - SHRIMP, CRABS, AND LOBSTER

SECTION .0200 - CRABS

15A NCAC 03L .0201 CRAB HARVEST RESTRICTIONS

~~(a) It is unlawful to possess blue crabs less than five inches from tip of spike to tip of spike except mature females, soft and peeler crabs and from March 1 through October 31, and male crabs to be used as peeler bait. A culling tolerance of not more than 10 percent by number in any container shall be allowed.~~

~~(b) All crabs not of legal size, except mature female and soft crabs shall be immediately returned to the waters from which taken. Peeler crabs shall be separated where taken and placed in a separate container. White line peeler crabs shall be separated from pink and red line peeler crabs where taken and placed in a separate container. A culling tolerance of not more than five percent by number shall be allowed for white line peelers in the pink and red line peeler container. Those peeler crabs not separated shall be deemed hard crabs and are not exempt from the size restrictions specified in Paragraph (a) of this Rule.~~

(a) It is unlawful to possess more than 10 percent by number in any container, male and immature female hard blue crabs less than five inches from tip of spike to tip of spike and to fail to return hard blue crabs not meeting this restriction to the waters from which taken, except the Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs. All blue crabs not sorted into containers as specified in Paragraph (b) of this Rule shall be deemed hard blue crabs for the purpose of establishing the 10 percent culling tolerance.

(b) It is unlawful to possess blue crabs less than five inches from tip of spike to tip of spike unless individuals are sorted to and placed in separate containers for each of the following categories:

- (1) Soft crabs;
- (2) Pink and red-line peeler crabs;
- (3) White-line peeler crabs; and
- (4) From March 1 through October 31, male crabs to be used as peeler crab bait.

The Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(c) It is unlawful to possess more than five percent by number of white-line peelers in a container of pink and red-line peelers, except the Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

~~(e) The Director, may by proclamation, impose the following restrictions when the sum of the carapace widths of mature female blue crabs collected during the September cruise of the Division of Marine Fisheries Pamlico Sound Fishery Independent Trawl Survey divided by the total number of tows (adjusted catch per effort) falls below the lower 90 percent confidence limit for two consecutive years (spawner index):~~

- ~~(1) It is unlawful to possess mature female blue crabs greater than 6¾ inches from tip of spike to tip of spike from September 1 through April~~

~~30. A culling tolerance of not more than five percent by number in any container shall be allowed.~~

~~(2) It is unlawful to possess female peeler crabs greater than 5¼ inches from tip of spike to tip of spike from September 1 through April 30.~~

(d) It is unlawful to:

- (1) Sell white-line peelers;
- (2) Possess white-line peelers unless they are to be used in the harvester's permitted blue crab shedding operation; and
- (3) Possess male white-line peelers from June 1 through September 1.

The Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(e) It is unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per vessel per day for recreational purposes, except the Fisheries Director may, by proclamation authority established in Paragraph (f) of this Rule, further restrict the harvest of blue crabs.

(f) In order to comply with management measures adopted in the N.C. Blue Crab Fishery Management Plan, the Fisheries Director may, by proclamation, close the harvest of blue crabs and take the following actions for commercial and recreational blue crab harvest:

- (1) Specify areas;
- (2) Specify seasons;
- (3) Specify time periods;
- (4) Specify means and methods;
- (5) Specify culling tolerance; and
- (6) Specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

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

15A NCAC 03L .0202 CRAB TRAWLING

(a) It is unlawful to take or possess aboard a vessel crabs taken by trawl in internal waters except in areas and during such times as the Fisheries Director may specify by proclamation.

(b) It is unlawful to use any crab trawl with a mesh length less than three inches for taking hard crabs, except that the Fisheries Director may, by proclamation, increase the minimum mesh length to no more than four inches, and specify areas for crab trawl mesh size use: a trawl to take crabs that does not meet mesh length requirements, except as provided in 15A NCAC 03J .0104. The minimum mesh length to take hard crabs with a trawl is three inches, except:

- (1) The minimum mesh length is four inches in the area of western Pamlico Sound west of a line beginning at a point 35° 48.3693' N - 75° 43.7232' W on Roanoke Marshes Point; running easterly to a point 35° 48.3000' N - 75° 37.1167' W near Beacon "I" at the southern end of Roanoke Island; running southerly to a point 35° 30.7500' N - 75° 40.5667' W near the "S" Beacon at Long Shoal; running southwesterly to a point 35°

12.6167' N - 76° 04.3833' W near the "BL" Beacon on Bluff Shoal; running westerly to a point 35° 08.1000' N - 76° 17.5000' W near the "BI" Beacon at Brant Island Shoal; running southwesterly to a point 35° 04 .6167' N - 76° 27.8000' W on Point of Marsh; and

(2) The Fisheries Director may, by proclamation, specify areas other than the area described in Subparagraph (b)(1) of this Rule for trawl mesh length use and increase the minimum trawl mesh length to no more than four inches to take hard crabs.

(c) It is unlawful to use ~~trawls~~ a trawl with a mesh length less than two inches or with a combined total headrope length exceeding 25 feet ~~for taking soft or "peeler" crabs.~~ to take soft or peeler crabs, except as provided in 15A NCAC 03J .0104.

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

15A NCAC 03L .0203 CRAB DREDGING

(a) It is unlawful to take crabs with dredges except:

- (1) From January 1 through March 1 in the area of Pamlico Sound described in ~~15A NCAC 03R .0109~~ 15A NCAC 03R .0109; and
- (2) ~~Crabs may be taken incidental~~ Incidental to lawful oyster dredging operations in areas not subject to the exception in Subparagraph (a)(1) of this Rule provided the weight of the crabs shall not exceed:
 - (A) 50 percent of the total weight of the combined oyster and crab catch; or
 - (B) 500 pounds, whichever is less.

The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of dredges to take blue crabs.

(b) It is unlawful to take crabs with dredges between sunset and sunrise and between sunset on any Saturday and sunrise on the following Monday, except in the Atlantic Ocean.

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

15A NCAC 03L .0204 CRAB POTS

(a) It is unlawful to take crabs with pots except as provided in 15A NCAC 03J .0301 and .0302. The Fisheries Director may, by proclamation authority established in 15A NCAC 03L .0201, further restrict the use of pots to take blue crabs.

(b) The Fisheries Director may, by proclamation, require the use of terrapin excluder devices in each funnel entrance in crab pots and impose the following restrictions concerning terrapin excluder devices:

- (1) Specify areas;
- (2) Specify time periods; and
- (3) Specify means and methods.

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

15A NCAC 03L .0205 CRAB SPAWNING SANCTUARIES

(a) It is unlawful to set or use trawls, pots, and mechanical methods for oysters or clams or take crabs with the use of

commercial fishing equipment from the crab spawning sanctuaries described in ~~15A NCAC 3R .0110~~ 15A NCAC 03R .0110 from March 1 through August 31.

(b) ~~From September 1 through February 28, the~~ The Fisheries Director may, by proclamation, ~~close the~~ designate additional areas as crab spawning sanctuaries and may impose ~~any or all of~~ the following ~~restrictions:~~ restrictions in any crab spawning sanctuary:

- ~~(1) specify number of days;~~
- ~~(2) specify areas;~~
- ~~(3) specify means and methods which may be employed in the taking;~~
- ~~(4) specify time period; and~~
- ~~(5) limit the quantity.~~
- (1) Specify areas;
- (2) Specify time periods;
- (3) Specify means and methods; and
- (4) Specify limits on harvest based on size, quantity, sex, reproductive stage, or peeler stage.

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

15A NCAC 03L .0206 PEELER CRABS

~~(a) It is unlawful to bait peeler pots, except with male blue crabs. Male blue crabs to be used as peeler bait and less than the legal size shall be kept in a separate container, and may not be landed or sold.~~

~~(b) It is unlawful to possess male white line peelers from June 1 through September 1.~~

~~(c) It is unlawful to sell white line peelers.~~

~~(d) It is unlawful to possess white line peelers unless they are to be used by the harvester in the harvester's permitted blue crab shedding operation.~~

~~(e) Peeler crabs shall be separated where taken and placed in a separate container.~~

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

15A NCAC 03L .0209 RECREATIONAL HARVEST OF CRABS

~~It is unlawful to possess more than 50 blue crabs per person per day, not to exceed 100 blue crabs per vessel per day, for recreational purposes.~~

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

SUBCHAPTER 03M - FINFISH

SECTION .0100 - FINFISH, GENERAL

15A NCAC 03M .0103 MINIMUM SIZE LIMITS

~~It shall be is~~ is unlawful to possess, sell, or purchase ~~fish~~ finfish under four inches in length except:

- ~~(1) for use as bait in the crab pot fishery in North Carolina with the following provision: such crab pot bait shall not be transported west of~~

U.S. Interstate 95 and when transported, shall be accompanied by documentation showing the name and address of the shipper, the name and address of the consignee, and the total weight of the ~~shipment;~~ shipment;

(2) ~~for use as bait in the finfish fishery with the following provisions:~~

~~(A)(a) It shall be is~~ is unlawful to possess more than 200 pounds of live ~~fish~~ finfish or 100 pounds of dead ~~fish;~~ finfish; and

~~(B)(b) Such finfish bait may not be transported outside the State of North Carolina.~~ Carolina;

(3) live finfish in aquaria, provided the finfish are not subject to other minimum size limits under the authority of Marine Fisheries Commission Rule; and

(4) menhaden, herring, gizzard shad, and pinfish.

Bait dealers who possess a valid finfish ~~dealers~~ dealer license from the Division of Marine Fisheries are exempt from Subitems (2)(a) and (b) of this Rule. Tolerance of not more than five percent by number of species shall be allowed. ~~Menhaden, herring, gizzard shad, pinfish and live fish in aquaria other than those for which a minimum size exists are exempt from this Rule.~~

Authority G.S. 113-134; 113-185; 143B-289.52.

SECTION .0200 - STRIPED BASS

15A NCAC 03M .0206 HYBRID STRIPED BASS CULTURE

~~Culture and sale of hybrid striped bass conducted in accordance with Rule 15A NCAC 10H Section .0700 of the North Carolina Wildlife Resources Commission shall be exempt from rules of the North Carolina Marine Fisheries Commission concerning striped bass.~~

Authority G.S. 113-132; 113-134; 143B-289.52.

SECTION .0500 - OTHER FINFISH

15A NCAC 03M .0521 SHEEPSHEAD

The Fisheries Director may, by proclamation, impose any or all of the following restrictions on the taking of sheepshead:

- (1) Specify time;
- (2) Specify area;
- (3) Specify means and methods;
- (4) Specify season;
- (5) Specify size; and
- (6) Specify quantity.

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

SUBCHAPTER 03O - LICENSES, LEASES, FRANCHISES AND PERMITS

SECTION .0500 - PERMITS

15A NCAC 03O .0503 PERMIT CONDITIONS;

SPECIFIC

(a) Horseshoe Crab Biomedical Use Permit:

- (1) It is unlawful to use horseshoe crabs for biomedical purposes without first obtaining a permit.
- (2) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to submit a report on the use of horseshoe crabs to the Division of Marine Fisheries due on February 1 of each year. Such reports shall be filed on forms provided by the Division and shall include a monthly account of the number of crabs harvested, statement of percent mortality up to the point of release, and a certification that harvested horseshoe crabs are solely used by the biomedical facility and not for other purposes.
- (3) It is unlawful for persons who have been issued a Horseshoe Crab Biomedical Use Permit to fail to comply with the Atlantic States Marine Fisheries Commission Interstate Fishery Management Plan for Horseshoe Crab Fisheries Management Plan monitoring and tagging requirements for horseshoe crabs. Copies of this plan are available from the Atlantic States Marine Fisheries Commission, ~~1444 Eye Street, NW, 6th Floor, Washington, DC 20005, (202) 289-6400,~~ Commission or the Division of Marine Fisheries' Morehead City Headquarters Office.

(b) Dealers Permits for Monitoring Fisheries under a Quota/Allocation:

- (1) During the commercial season opened by proclamation or rule for the fishery for which a Dealers Permit for Monitoring Fisheries under a Quota/Allocation permit is issued, it is unlawful for fish dealers issued such permit to fail to:
 - (A) Fax or send via electronic mail by noon daily, on forms provided by the Division, the previous day's landings for the permitted fishery to the dealer contact designated on the permit. Landings for Fridays or Saturdays shall be submitted on the following Monday. If the dealer is unable to fax or electronic mail the required information, the permittee shall call in the previous day's landings to the dealer contact designated on the permit but shall maintain a log furnished by the Division;
 - (B) Submit the required log to the Division upon request or no later than five days after the close of the season for the fishery permitted;
 - (C) Maintain faxes and other related documentation in accordance with 15A NCAC 03I .0114;

- (D) Contact the dealer contact daily regardless of whether or not a transaction for the fishery for which a dealer is permitted occurred;
- (E) Record the permanent dealer identification number on the bill of lading or receipt for each transaction or shipment from the permitted fishery.

(2) Striped Bass Dealer Permit:

- (A) It is unlawful for a fish dealer to possess, buy, sell or offer for sale striped bass taken from the following areas without first obtaining a Striped Bass Dealer Permit validated for the applicable harvest area:
 - (i) Atlantic Ocean;
 - (ii) Albemarle Sound Management Area as designated in 15A NCAC 03R .0201; and
 - (iii) The joint and coastal fishing waters of the Central/Southern Management Area as designated in 15A NCAC 03R .0201.
- (B) No permittee shall possess, buy, sell or offer for sale striped bass taken from the harvest areas opened by proclamation without having a North Carolina Division of Marine Fisheries issued valid tag for the applicable area affixed through the mouth and gill cover, or, in the case of striped bass imported from other states, a similar tag that is issued for striped bass in the state of origin. North Carolina Division of Marine Fisheries striped bass tags shall not be bought, sold, offered for sale, or transferred. Tags shall be obtained at the North Carolina Division of Marine Fisheries Offices. The Division of Marine Fisheries shall specify the quantity of tags to be issued based on historical striped bass landings. It is unlawful for the permittee to fail to surrender unused tags to the Division upon request.
- (3) Albemarle Sound Management Area for River Herring Dealer Permit: It is unlawful to possess, buy, sell or offer for sale river herring taken from the following area without first obtaining an Albemarle Sound Management Area for River Herring Dealer Permit: Albemarle Sound Management Area for River Herring ~~is~~ as defined in 15A NCAC 03J .0209.
- (4) Atlantic Ocean Flounder Dealer Permit:

- (A) It is unlawful for a fish dealer to allow vessels holding a valid License to Land Flounder from the Atlantic Ocean to land more than 100 pounds of flounder from a single transaction at their licensed location during the open season without first obtaining an Atlantic Ocean Flounder Dealer Permit. The licensed location shall be specified on the Atlantic Ocean Flounder Dealer Permit and only one location per permit shall be allowed.
- (B) It is unlawful for a fish dealer to possess, buy, sell, or offer for sale more than 100 pounds of flounder from a single transaction from the Atlantic Ocean without first obtaining an Atlantic Ocean Flounder Dealer Permit.
- (5) Black Sea Bass North of Cape Hatteras Dealer Permit. It is unlawful for a fish dealer to purchase or possess more than 100 pounds of black sea bass taken from the Atlantic Ocean north of Cape Hatteras (35° 15.0321' N) per day per commercial fishing operation during the open season unless the dealer has a Black Sea Bass North of Cape Hatteras Dealer Permit.
- (c) Blue Crab Shedding Permit: It is unlawful to possess more than 50 blue crabs in a shedding operation without first obtaining a Blue Crab Shedding Permit from the Division of Marine Fisheries.
- (d) Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean:
- (1) It is unlawful to trawl for shrimp in the Atlantic Ocean without Turtle Excluder Devices installed in trawls within one nautical mile of the shore from Browns Inlet (34° 35.7000' N latitude) to Rich's Inlet (34° 17.6000' N latitude) without a valid Permit to Waive the Requirement to Use Turtle Excluder Devices in the Atlantic Ocean when allowed by proclamation from April 1 through November 30.
 - (2) It is unlawful to tow for more than 55 minutes from April 1 through October 31 and 75 minutes from November 1 through November 30 in this area when working under this permit. Tow time begins when the doors enter the water and ends when the doors exit the water.
 - (3) It is unlawful to fail to empty the contents of each net at the end of each tow.
 - (4) It is unlawful to refuse to take observers upon request by the Division of Marine Fisheries or the National Marine Fisheries Service.
 - (5) It is unlawful to fail to report any sea turtle captured. Reports shall be made within 24 hours of the capture to the Marine Patrol Communications Center by phone. All turtles taken incidental to trawling shall be handled and resuscitated in accordance with requirements specified in 50 CFR 223.206, copies of which are available via the Internet at www.nmfs.gov and at the Division of Marine Fisheries, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.
- (e) Pound Net Set Permits. Rules setting forth specific conditions for pound net sets are set forth in 15A NCAC 03J .0505.
- (f) Aquaculture Operations/Collection Permits:
- (1) It is unlawful to conduct aquaculture operations utilizing marine and estuarine resources without first securing an Aquaculture Operation Permit from the Fisheries Director.
 - (2) It is unlawful:
 - (A) To take marine and estuarine resources from coastal fishing waters for aquaculture purposes without first obtaining an Aquaculture Collection Permit from the Fisheries Director.
 - (B) To sell, or use for any purpose not related to North Carolina aquaculture, marine and estuarine resources taken under an Aquaculture Collection Permit.
 - (C) To fail to submit to the Fisheries Director an annual report due on December 1 of each year on the form provided by the Division the amount and disposition of marine and estuarine resources collected under authority of this permit.
 - (3) Lawfully permitted shellfish relaying activities authorized by 15A NCAC 03K .0103 and .0104 are exempt from requirements to have an Aquaculture Operation or Collection Permit issued by the Fisheries Director.
 - (4) Aquaculture Operations/Collection Permits shall be issued or renewed on a calendar year basis.
 - (5) It is unlawful to fail to provide the Division of Marine Fisheries with a listing of all designees who will be acting under an Aquaculture Collection Permit at the time of application.
- (g) Scientific or Educational ~~Collection~~ Activity Permit:
- (1) It is unlawful for ~~individuals~~ institutions or agencies seeking exemptions from license, rule, proclamation or statutory requirements to ~~collect~~ collect, hold, culture or exhibit for scientific or educational purposes ~~as approved by the Division of Marine Fisheries~~ any marine ~~and~~ or estuarine species without first ~~securing~~ obtaining a Scientific or Educational ~~Collection~~ Activity Permit.
 - (2) The Scientific or Educational Activity Permit shall only be issued for scientific or

- educational purposes and for collection methods and possession restrictions approved by the Division of Marine Fisheries.
- (3) The Scientific or Educational Activity Permit shall only be issued for approved activities conducted by or under the direction of Scientific or Educational institutions as defined in Rule 15A NCAC 03I .0101.
- (2)(4) It is unlawful for ~~persons who have been~~ the responsible party issued a Scientific or Educational ~~Collection-Activity~~ Permit to fail to submit a report on collections and, if authorized, sales to the Division of Marine Fisheries due on December 1 of each year unless otherwise specified on the permit. The reports shall be filed on forms provided by the Division. Scientific or Educational ~~Collection Permits~~ Activity permits shall be issued on a calendar year basis.
- (3)(5) It is unlawful to sell marine ~~and or~~ estuarine species taken under a Scientific or Educational ~~Collection Permit~~ Activity Permit without:
- (A) ~~without~~ the required license(s) for such sale;
- (B) ~~to anyone other than a licensed North Carolina fish dealer; and~~
- (C)(B) ~~without~~ authorization stated on the permit for such ~~sale, sale; and~~
- (C) providing the information required in Rule 15A NCAC 03I .0114 if the sale is to a licensed fish dealer.
- (4)(6) It is unlawful to fail to provide the Division of Marine Fisheries a listing of all designees who will be acting under a Scientific or Educational ~~Collection Permits~~ Activity Permit at the time of application.
- (5)(7) The permittee or designees utilizing the permit shall call ~~or fax~~ the Division of Marine Fisheries Communications Center at 800-682-2632 or 252-726-7021 not later than 24 hours prior to use of the permit, specifying activities and location.
- (h) Under Dock Oyster Culture Permit:
- (1) It is unlawful to cultivate oysters in containers under docks for personal consumption without first obtaining an Under Dock Oyster Culture Permit.
- (2) An Under Dock Oyster Culture Permit shall be issued only in accordance with provisions set forth in G.S. 113-210(c).
- (3) The applicant shall complete and submit an examination, with a minimum of 70 percent correct answers, based on an educational package provided by the Division of Marine Fisheries pursuant to G.S. 113-210(j). The examination demonstrates the applicant's knowledge of:
- (A) the application process;
- (B) permit criteria;
- (C) basic oyster biology and culture techniques;
- (D) shellfish harvest area closures due to pollution;
- (E) safe handling practices;
- (F) permit conditions; and
- (G) permit revocation criteria.
- (4) Action by an Under Dock Oyster Culture Permit holder to encroach on or usurp the legal rights of the public to access public trust resources in coastal fishing waters shall result in permit revocation.
- (i) Atlantic Ocean Striped Bass Commercial Gear Permit:
- (1) It is unlawful to take striped bass from the Atlantic Ocean in a commercial fishing operation without first obtaining an Atlantic Ocean Striped Bass Commercial Gear Permit.
- (2) It is unlawful to use a single Standard Commercial Fishing License, including assignments, to obtain more than one Atlantic Ocean Striped Bass Commercial Gear Permit during a license year.
- (j) Coastal Recreational Fishing License Exemption Permit:
- (1) It is unlawful for the responsible party seeking exemption from recreational fishing license requirements for eligible individuals to conduct an organized fishing event held in coastal or joint fishing waters without first obtaining a Coastal Recreational Fishing License Exemption Permit.
- (2) The Coastal Recreational Fishing License Exemption Permit shall only be issued for recreational fishing activity conducted solely for the participation and benefit of one of the following groups of eligible individuals:
- (A) Individuals with physical or mental limitations;
- (B) Members of the United States Armed Forces and their dependents, upon presentation of a valid military identification card, for military appreciation;
- (C) Individuals receiving instruction on recreational fishing techniques and conservation practices from employees of state or federal marine or estuarine resource management agencies, or instructors affiliated with educational institutions; and
- (D) Disadvantaged youths.
- For purposes of this Paragraph, educational institutions include high schools and other secondary educational institutions.
- (3) The Coastal Recreational Fishing License Exemption Permit is valid for the date(s), time and physical location of the organized fishing event for which the exemption is granted and the time period shall not exceed one year from the date of issuance.

- (4) The Coastal Recreational Fishing License Exemption Permit shall only be issued when all of the following, in addition to the information required in 15A NCAC 03O .0501, is submitted to the Fisheries Director in writing a minimum of 30 days prior to the event:

- (A) The name, date(s), time and physical location of the event;
- (B) Documentation that substantiates local, state or federal involvement in the organized fishing event, if applicable;
- (C) The cost or requirements, if any, for an individual to participate in the event; and
- (D) An estimate of the number of participants.

(k) For Hire Fishing Permit:

- (1) It is unlawful to operate a For Hire Vessel unless the vessel operator possesses either the For Hire Blanket Coastal Recreational Fishing License (CRFL) for the vessel as provided in 15A NCAC 03O .0112 or a Division of Marine Fisheries For Hire Fishing Permit for the vessel.
- (2) It is unlawful for a For Hire vessel operator to operate under the For Hire Fishing Permit without:
 - (A) Holding the USCG certification required in 15A NCAC 03O .0501(g)(1);
 - (B) Having the For Hire Fishing Permit for the vessel or copy thereof in possession and ready at hand for inspection;
 - (C) Having current picture identification in possession and ready at hand for inspection.
- (3) It is unlawful for the permittee to fail to notify the Division within five days of any changes to information provided on the permit.
- (4) It is unlawful to fail to display a current For Hire Fishing Permit decal mounted on an exterior surface of the vessel so as to be visible when viewed from the port side while engaged in for-hire recreational fishing.
- (5) The For Hire Fishing Permit is valid for one year from the date of issuance.

15A NCAC 03Q .0202 DESCRIPTIVE BOUNDARIES FOR COASTAL-JOINT-INLAND WATERS

Descriptive boundaries for Coastal-Joint-Inland Waters referenced in 15A NCAC 03Q .0201 are as follows:

(1) Beaufort County:

- (a) Pamlico - Tar River - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 32.2167' N - 77° 02.8701' W; running southwesterly along the east side of the railroad bridge to a point on the south shore 35° 32.0267' N - 77° 03.5179' W.

- (i) All Manmade tributaries - All manmade tributaries within Pamlico - Tar River in Beaufort County are designated as Joint.

- (b) Pungo River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 34.2702' N - 76° 30.1354' W; running northeasterly to a point on the east shore 35° 34.3192' N - 76° 30.0238' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 32.0974' N - 76° 29.6067' W; running southerly to a point on the south shore 35° 30.2620' N - 76° 29.3843' W.

- (i) Flax Pond Bay - All waters within this waterbody are designated as Coastal.

- (ii) Upper Dowry Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 31.8946' N - 76° 32.1231' W; running northeasterly to a point on the east shore 35° 31.9656' N - 76° 32.0114' W.

- (iii) Lower Dowry Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 32.4188' N - 76° 35.3924' W; running northeast to a point on the east shore 35° 32.4691' N - 76° 35.2748' W.

- (iv) George Best Creek - All waters within this waterbody are designated as Coastal.

- (v) Toms Creek - All waters within this waterbody are designated as Coastal.

Authority G.S. 113-134; 113-169.1; 113-169.3; 113-182; 113-210; 143B-289.52.

**SUBCHAPTER 03Q - JURISDICTION OF AGENCIES:
CLASSIFICATION OF WATERS**

SECTION .0200 - BOUNDARY LINES: COASTAL-JOINT-INLAND FISHING WATERS

- (vi) Pantego Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the north shore 35° 31.9908' N - 76° 36.6105' W; running southerly along the Breakwater to a point 35° 31.6628' N - 76° 36.9840' W; running southwesterly to a point on the south shore 35° 31.5653' N - 76° 37.3832' W.

(vii) Pungo Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 29.9986' N - 76° 40.3564' W; running southerly to a point on the south shore 35° 29.8887' N - 76° 40.3262' W.

(A) Vale Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 31.0370' N - 76° 38.9044' W; running northeasterly to a point on the east shore 35° 31.0528' N - 76° 38.8536' W.

(B) Scotts Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 30.4264' N - 76° 40.1156' W; running easterly to a point on the east shore 35° 30.4264' N - 76° 39.9430' W.

(C) Smith Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 30.2844' N - 76° 40.2941' W; running southerly to a point on the south shore 35°

30.1982' N - 76° 40.2621' W.

(viii) Woodstock (Little) Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 30.5291' N - 76° 38.1600' W; running easterly to a point on the east shore 35° 30.4852' N - 76° 38.0278' W.

(ix) Jordan Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 27.7256' N - 76° 36.2159' W; running southerly to a point 35° 27.5587' N - 76° 36.2704' W; following the eastern shore to a point 35° 27.4651' N - 76° 36.3294' W; running southerly to a point on the south shore 35° 27.3429' N - 76° 36.4498' W.

(x) Satterthwaite Creek - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the north shore 35° 25.2994' N - 76° 35.4281' W; running southerly to a point on the south shore 35° 25.1284' N - 76° 35.4949' W.

(xi) Wright Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the west shore 35° 24.8664' N - 76° 35.4240' W; running southeasterly to a point on the east shore 35° 24.7995' N - 76° 35.3086' W.

(c) North Creek - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.1667' N - 76° 40.1042' W; running easterly to a point on the east shore 35° 25.0971' N - 76° 39.6340' W.

(d) St. Clair Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 25.7691' N - 76° 42.6406' W; running easterly to a point on the east shore 35° 25.7695' N - 76° 42.5967' W.

(e) Mixon Creek - Inland Waters north and Coastal Waters south of a line

- beginning at a point on the west shore 35° 25.7601' N - 76° 46.5971' W; running easterly to a point 35° 25.7304' N - 76° 46.2547' W; following the southern shoreline to a point 35° 25.6878' N - 76° 46.2034' W; running southeasterly to a point 35° 25.6606' N - 76° 46.1892' W; following the southern shoreline to a point 35° 25.6267' N - 76° 46.1494' W; running southeasterly to a point on the east shore 35° 25.6166' N - 76° 46.1361' W.
- (f) Bath Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 27.1685' N - 76° 49.4087' W; running northeasterly to a point on the east shore 35° 27.2371' N - 76° 49.0969' W.
- (g) Duck Creek - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the west shore 35° 27.5395' N - 76° 52.0074' W; running southerly to a point on the east shore 35° 27.4401' N - 76° 51.9827' W.
- (h) Mallard Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 27.6461' N - 76° 53.6398' W; running easterly to a point on the east shore 35° 27.6425' N - 76° 53.5816' W.
- (i) Upper Goose Creek - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the west shore 35° 28.5346' N - 76° 56.0229' W; running southeasterly to a point on the east shore 35° 28.4014' N - 76° 55.8714' W.
- (j) Broad Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 29.1023' N - 76° 57.3738' W; running easterly to a point on the east shore 35° 29.1059' N - 76° 57.1188' W.
- (k) Herring Run (Runyan Creek) - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 32.1615' N - 77° 02.3606' W; running southeasterly to a point on the east shore 35° 32.1340' N - 77° 02.3438' W.
- (l) Chocowinity Bay - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the west shore 35° 29.4751' N - 77° 01.8507' W; running northeasterly to a point on the east shore 35° 29.8780' N - 77° 01.3169' W.
- (m) Calf Tree Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the north shore 35° 29.2268' N - 77° 01.2973' W; running southeasterly to a point on the south shore 35° 29.2115' N - 77° 01.2831' W.
- (n) Hills Creek - Inland Waters south and Coastal waters north of a line beginning at a point on the west shore 35° 28.5227' N - 77° 00.2664' W; running easterly to a point on the east shore 35° 28.5193' N - 77° 00.2270' W.
- (o) Blounts Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 26.2010' N - 76° 58.1716' W; running southerly to a point on the south shore 35° 26.1369' N - 76° 58.1671' W.
- (p) Nevil Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 26.1117' N - 76° 54.5233' W; running southeasterly to a point on the east shore 35° 26.0966' N - 76° 54.5045' W.
- (q) Barris Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 24.8423' N - 76° 49.9928' W; running easterly to a point on the east shore 35° 24.8451' N - 76° 49.9745' W.
- (r) Durham Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 23.7824' N - 76° 49.3016' W; running easterly to a point on the east shore 35° 23.7821' N - 76° 48.8703' W.
- (s) Huddles Cut - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 22.5817' N - 76° 44.8727' W; running easterly to a point on the east shore 35° 22.5782' N - 76° 44.8594' W.
- (t) Huddy Gut - All waters within this waterbody are designated as Coastal.
- (u) South Creek - Inland Waters south and Coast Waters north of a line beginning at a point on the west shore

35° 18.9589' N - 76° 47.4298' W;
running easterly to a point on the east
shore 35° 18.9994' N - 76° 47.3007'
W.

(i) Tooleys Creek - Inland
Waters north and Coastal
Waters south of a line
beginning at a point on the
west shore 35° 20.7080' N -
76° 44.8937' W; running
northeasterly to a point on
the east shore 35° 20.7440'
N - 76° 44.8324' W.

(ii) Drinkwater Creek - Inland
Waters north and Coastal
Waters south of a line
beginning at a point on the
west shore 35° 20.1441' N -
76° 45.8262' W; running
easterly to a point on the east
shore 35° 20.1333' N - 76°
45.7530' W.

(iii) Jacobs Creek - Inland
Waters northwest and
Coastal Waters southeast of
a line beginning at a point on
the north shore 35° 20.1420'
N - 76° 45.8395' W; running
southwesterly to a point on
the south shore 35° 20.0692'
N - 76° 45.8912' W.

(iv) Jacks Creek - Inland Waters
north and Coastal Waters
south of a line beginning at a
point on the north shore 35°
19.5455' N - 76° 47.0155'
W; running southwesterly to
a point on the south shore
35° 19.4986' N - 76°
47.0741' W.

(v) Whitehurst Creek - Inland
Waters west and Coastal
Waters east of a line
beginning at a point on the
north shore 35° 19.2878' N -
76° 47.4778' W; running
southerly to a point on the
south shore 35° 19.2295' N -
76° 47.4430' W.

(vi) Little Creek - Inland Waters
south and Coastal waters
north of a line beginning at a
point on the west shore 35°
18.9873' N - 76° 45.9292'
W; running easterly to a
point on the east shore 35°
19.0209' N - 76° 45.8258'
W.

(vii) Short Creek - Inland Waters
southeast and Coastal
Waters northwest of a line
beginning at a point on the
north shore 35° 20.1228' N -
76° 44.6031' W; running
southwesterly to a point on
the south shore 35° 20.0527'
N - 76° 44.6667' W.

(viii) Long Creek - Inland Waters
south and Coastal Waters
north of a line beginning at a
point on the west shore 35°
20.3050' N - 76° 44.3444'
W; running northeasterly to
a point on the east shore 35°
20.4185' N - 76° 43.8949'
W.

(ix) Bond Creek - Inland Waters
south and Coastal Waters
north of a line beginning at a
point on the west shore 35°
20.4231' N - 76° 42.0469'
W; running southeasterly to
a point on the east shore 35°
20.2539' N - 76 ° 41.8254'
W.

(x) Muddy Creek - Inland
Waters south and Coastal
Waters north of a line
beginning at a point on the
west shore 35° 20.1523' N -
76° 41.2074' W; running
northeasterly to a point on
the east shore 35° 20.2413'
N - 76° 41.0572' W.

(v) Davis Creek - Inland Waters south
Coastal Waters north of a line
beginning at a point on the west shore
35° 20.7032' N - 76° 40.3404' W;
running easterly to a point on the east
shore 35° 20.7112' N - 76° 40.1637'
W.

(w) Strawhorn Creek - Inland Waters
south and Coastal Waters north of a
line beginning at a point on the west
shore 35° 20.4091' N - 76° 39.0998'
W; running northeasterly to a point
on the east shore 35° 20.4750' N - 76°
38.8874' W.

(x) Lower Goose Creek - All waters
within this waterbody are designated
as Coastal.

(i) Lower Spring Creek - Inland
Waters west and Coastal
Waters east of a line
beginning at a point on the
north shore 35° 19.7932' N -
76° 37.5347' W; running

- southerly to a point on the south shore 35° 19.4670' N - 76° 37.4134' W.
- (ii) Peterson Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the west shore 35° 18.7722' N - 76° 37.5059' W; running northeasterly to a point on the east shore 35° 18.8406' N - 76° 37.4111' W.
- (iii) Snode Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 18.2787' N - 76° 37.4679' W; running southwesterly to a point on the south shore 35° 18.0821' N - 76° 37.5544' W.
- (iv) Campbell Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 17.1203' N - 76° 37.9248' W; running southerly to a point on the south shore 35° 16.8807' N - 76° 37.9101' W.
- (A) Smith Creek - All waters within this waterbody are designated as Inland.
- (v) Hunting Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 16.7523' N - 76° 36.8138' W; running easterly to a point on the east shore 35° 16.6779' N - 76° 36.5885' W.
- (2) Bertie County:
- (a) Albemarle Sound - All waters in this waterbody are designated as Coastal.
- (i) All Manmade Tributaries - All manmade tributaries within this waterbody for Bertie County are designated as Joint.
- (ii) Roanoke River - Joint Waters south and Coastal Waters north of a line beginning at a point on the west shore of the Roanoke River 35° 56.5068' N - 76° 41.8858' W; running easterly to a point on the east shore 35° 56.5324' N - 76° 41.5896' W.
- (A) Sandy Run (Norfleet Gut) - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 10.1119' N - 77° 17.5396' W; running northeasterly to a point on the east shore 36° 10.1172' N - 77° 17.5316' W.
- (B) Quinine - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 09.6041' N - 77° 15.9091' W; running easterly to a point on the east shore 36° 09.6068' N - 77° 15.8912' W.
- (C) Wire Gut - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 00.9580' N - 77° 13.0755' W; running easterly to a point on the east shore 36° 00.9542' N - 77° 13.0320' W.
- (D) Apple Tree Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 00.4174' N - 77° 12.3252' W; running southeasterly to a point on the south shore 36° 00.3987' N - 77° 12.3088' W.
- (E) Indian Creek - Inland Waters east and Joint Waters west of a line beginning at a point

- on the north shore
35° 59.0794' N -
77° 11.4926' W;
running southerly
to a point on the
south shore 35°
59.0597' N - 77°
11.4967' W.
- (F) Coniott Creek -
Inland Waters west
and Joint Waters
east of a line
beginning at a point
on the north shore
35° 56.6562' N -
77° 04.2860' W;
running
southwesterly to a
point on the south
shore 35° 56.6397'
N - 77° 04.3066' W.
- (G) Conine Creek - All
waters in this
waterbody are
designated as Joint.
- (H) Old Mill Creek -
Inland Waters north
and Joint Waters
south of a line
beginning at a point
on the west shore
35° 53.9483' N -
76° 55.3921' W;
running
southeasterly to a
point on the east
shore 35° 53.9378'
N - 76° 55.3710' W.
- (I) Cut Cypress Creek
- Inland Waters
northeast and Joint
Waters southwest
of a line beginning
at a point on the
north shore 35°
51.9465' N - 76°
53.5762' W;
running
southeasterly to a
point on the south
shore 35° 51.9229'
N - 76° 53.5556' W.
- (J) Broad Creek -
Inland Waters west
and Joint Waters
east of a line
beginning at a point
on the north shore
35° 52.5191' N -
76° 50.4235' W;
running southerly
to a point on the
south shore 35°
52.4262' N - 76°
50.3791' W.
- (K) Thorofare - All
waters within this
waterbody are
designated as Joint.
- (iii) Cashie River - Inland Waters
west and Joint Waters east of
a line beginning at a point on
the north shore 35° 54.7865'
N - 76° 49.0521' W; running
southerly to a point on the
south shore 35° 54.6691' N -
76° 49.0553' W. Joint
Waters south and west and
Coastal Waters north and
east of a line beginning at a
point on the west shore 35°
56.2934' N - 76° 44.1769'
W; running easterly to a
point on the north shore of
an island in the mouth of the
river 35° 56.2250' N - 76°
43.9265' W. Joint Waters
west and Coastal Waters east
of a line beginning at a point
on the south shore of an
island in the mouth of the
river 35° 56.1254' N - 76°
43.9846' W; running
southerly to a point on the
south shore 35° 56.0650' N -
76° 43.9599' W.
- (A) Cashoke Creek -
Inland Waters west
and Joint Waters
east of a line
beginning at a point
on the north shore
35° 56.2934' N -
76° 44.1769' W;
running
southwesterly to a
point on the south
shore 35° 56.2623'
N - 76° 44.1993' W.
- (B) Broad Creek -
Inland Waters south
and Joint Waters
north of a line
beginning at a point
on the west shore
35° 55.0568' N -
76° 45.2632' W;
running easterly to

- a point on the east shore 35° 55.0543' N - 76° 45.1309' W.
- (C) Grinnel Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 55.3147' N - 76° 44.5010' W; running southerly to a point on the south shore 35° 55.2262' N - 76° 44.5495' W.
- (iv) Middle River - All waters within this waterbody are designated Joint.
- (v) Eastmost River - Joint Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.5024' N - 76° 42.4877' W; running westerly to a point on the east shore 35° 56.4070' N - 76° 42.7647' W.
- (vi) Mud Gut - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 53.2880' N - 76° 45.4463' W; running southwesterly to a point on the south shore 35° 53.2527' N - 76° 45.4678' W.
- (b) Black Walnut Swamp - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 59.4680' N - 76° 40.9556' W; running southerly to a point on the south shore 35° 59.3946' N - 76° 40.9629' W.
- (c) Salmon Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the north shore 36° 00.4648' N - 76° 42.3513' W; running southeasterly to a point on the south shore 36° 00.3373' N - 76° 42.1499' W.
- (d) Chowan River - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the west shore 36° 02.3162' N - 76° 42.4896' W; running northeasterly to a point on the east shore 36° 03.1013' N - 76° 40.8732' W.
- (i) Barkers Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 14.0709' N - 76° 44.2451' W; running southerly to a point on the south shore 36° 14.0492' N - 76° 44.2456' W.
- (ii) Willow Branch - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 04.7206' N - 76° 43.7667' W; running southeasterly to a point on the south shore 36° 04.7138' N - 76° 43.7580' W.
- (iii) Keel (Currituck) Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 14.1245' N - 76° 44.1961' W; running easterly to a point on the east shore 36° 14.0899' N - 76° 43.8533' W.
- (3) Bladen County:
- (a) Cape Fear River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 24.2628' N - 78° 17.6390' W; running northeasterly along the Lock and Dam # 1 to a point on the east shore 34° 24.2958' N - 78° 17.5634' W.
- (i) Natmore Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 24.2841' N - 78° 16.4405' W; running easterly to a point on the east shore 34° 24.2852' N - 78° 16.4039' W.
- (4) Brunswick County:
- (a) Calabash River And Tributaries - All waters within this waterbody in Brunswick County are designated as Coastal.
- (b) Saucepan Creek - All waters within this waterbody are designated as Coastal.
- (c) Shallotte River - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the south shore 33° 58.3412' N - 78° 23.1948' W; running northeasterly to a point on the north

- shore 33° 58.3518' N - 78° 23.1816' W.
- (i) Mill Dam Branch - All waters within this waterbody are designated as Coastal.
 - (ii) Squash Creek - All waters within this waterbody are designated as Coastal.
 - (iii) Mill Pond - All waters within this waterbody are designated as Coastal.
 - (iv) Charles Branch - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 33° 58.6276' N - 78° 21.2919' W; running easterly to a point on the east shore 33° 58.6257' N - 78° 21.2841' W.
 - (v) Grisset Swamp - All waters within this waterbody are designated as Coastal.
 - (vi) Little Shallotte River And Tributaries - All waters within this waterbody are designated as Coastal.
- (d) Lockwood Folly River - Inland Waters northeast and Coastal Waters southwest of a line beginning at a point on the north shore 34° 00.6550' N - 78° 15.8134' W; running southeasterly along the south side of NC Hwy 211 bridge to a point on the south shore 34° 00.6285' N - 78° 15.7928' W.
- (i) Stanberry Creek - All waters within this waterbody are designated as Coastal.
 - (ii) Pompeys Creek - All waters within this waterbody are designated as Coastal.
 - (iii) Maple Creek - All waters within this waterbody are designated as Coastal.
 - (iv) Rubys Creek - All waters within this waterbody are designated as Coastal.
 - (v) Big Doe Creek - All waters within this waterbody are designated as Coastal.
 - (vi) Lennons Creek - All waters within this waterbody are designated as Coastal.
 - (vii) Mercers Mill Pond Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 33° 57.7498' N - 78° 12.3532' W; running southeasterly to a point on the east shore 33° 57.7439' N - 78° 12.3440' W.
- (e) Elizabeth River - All waters within this waterbody are designated as Coastal.
- (i) Ash Creek - All waters within this waterbody are designated as Coastal.
- (f) Beaverdam Creek - All waters within this waterbody are designated as Coastal.
- (g) Dutchman Creek - All waters within this waterbody are designated as Coastal.
- (i) Calf Gully Creek - All waters within this waterbody are designated as Coastal.
 - (ii) Jumpin Run - All waters within this waterbody are designated as Coastal.
 - (iii) Fiddlers Creek - All waters within this waterbody are designated as Coastal.
- (h) Cape Fear River - Joint Waters north and Coastal Waters south of a line beginning at a point on the western side 34° 13.6953' N - 77° 57.2396' W; running southeasterly along the southern side of US 17-74-76 bridge to a point on the eastern side 34° 13.6214' N - 77° 57.0341' W.
- (i) ~~Carolina Power And Light Duke Energy Progress Brunswick Nuclear Plant~~ Intake Canal - All waters within this waterbody are designated as Coastal.
 - (ii) Walden Creek - All waters within this waterbody are designated as Coastal.
 - (iii) Orton Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 02.8436' N - 77° 56.7498' W; running southerly to a point on the south shore 34° 02.8221' N - 77° 56.7439' W.
 - (iv) Lilliput Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 04.1924' N - 77° 56.5361' W; running southerly to a point on the

- south shore 34° 04.1487' N - 77° 56.5447' W.
- (v) Sandhill Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the north shore 34° 06.9584' N - 77° 57.0085' W; running southeasterly to a point on the south shore 34° 06.9371' N - 77° 56.9943' W.
- (vi) Town Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 07.7492' N - 77° 57.3445' W; running southerly to a point on the south shore 34° 07.7034' N - 77° 57.3431' W.
- (vii) Mallory Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 09.9868' N - 77° 58.2023' W; running southerly to a point on the south shore 34° 09.9618' N - 77° 58.2133' W.
- (viii) Brunswick River - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the south shore 34° 10.7281' N - 77° 57.7793' W; running northeasterly to a point on the north shore 34° 10.9581' N - 77° 57.6452' W.
- (A) Alligator Creek - For the southernmost entrance into the Brunswick River: Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 13.5040' N - 77° 58.6331' W; running northwesterly to a point on the north shore 34° 13.5472' N - 77° 58.6628' W. For the northernmost entrance into the Brunswick River:
- Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 14.4300' N - 77° 59.2346' W; running northerly to a point on the north shore 34° 14.4618' N - 77° 59.2300' W.
- (B) Jackeys Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the south shore 34° 11.9400' N - 77° 58.5859' W; running northerly to a point on the north shore 34° 11.9565' N - 77° 58.5859' W.
- (C) Sturgeon Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 14.6761' N - 77° 59.4145' W; running southerly to a point on the south shore 34° 14.6404' N - 77° 59.4058' W.
- (ix) Cartwheel Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 15.7781' N - 77° 59.3852' W; running southerly to a point on the south shore 34° 15.7564' N - 77° 59.3898' W.
- (x) Indian Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 17.0441' N - 78° 00.3662' W; running southwesterly to a point on the south shore 34° 17.0006' N - 78° 00.3977' W.
- (xi) Hood Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 20.3713' N - 78° 04.7492' W; running southwesterly to a point on

- the south shore 34° 20.3393' N - 78° 04.7373' W.
- (xii) Northwest Creek - All waters within this waterbody are designated as Inland.
- (5) Camden County:
- (a) Albemarle Sound - All waters within this waterbody are designated Coastal.
- (i) All Manmade Tributaries - All waters within this waterbody are designated as Joint.
- (ii) Pasquotank River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 18.0768' N - 76° 13.0979' W; running easterly along the south side of the Highway 158 Bridge to a point on the east shore 36° 18.0594' N - 76° 12.9620' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 11.4282' N - 76° 01.2876' W; running southwesterly to a point on the south shore 36° 08.7563' N - 76° 03.6991' W.
- (A) Raymond Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 14.0746' N - 76° 03.3952' W; running easterly to a point on the east shore 36° 14.0711' N - 76° 03.3668' W.
- (B) Portohonk Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 15.0519' N - 76° 05.2793' W; running southeasterly to a point on the east shore 36° 15.0391' N - 76° 05.2532' W.
- (C) Areneuse Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 17.3133' N - 76° 08.1655' W; running southeasterly to a point on the east shore 36° 17.1328' N - 76° 07.6269' W.
- (iii) North River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.7703' N - 75° 58.7384' W; running southerly to a point on the south shore 36° 18.4130' N - 75° 58.7228' W. Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 09.8986' N - 75° 54.6771' W; running easterly to a point on the east shore 36° 10.0108' N - 75° 52.0431' W.
- (A) Wading Gut - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 10.6054' N - 75° 55.9529' W; running southeasterly to a point on the east shore 36° 10.5777' N - 75° 55.8654' W.
- (B) Little Broad Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 11.6530' N - 75° 57.2035' W; running southeasterly to a point on the east shore 36° 11.5587' N - 75° 56.9160' W.
- (C) Broad Creek - Inland Waters west and Joint Waters east of a line

- beginning at a point on the north shore 36° 12.2197' N - 75° 57.2685' W; running southerly to a point on the south shore 36° 11.6766' N - 75° 57.2254' W.
- (D) Hunting Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 15.0480' N - 75° 57.5820' W; running southeasterly to a point on the south shore 36° 14.9308' N - 75° 57.4635' W.
- (E) Abel Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 15.9530' N - 75° 58.0348' W; running southerly to a point on the south shore 36° 15.8553' N - 75° 58.0842' W.
- (F) Back Landing Creek - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the north shore 36° 16.4746' N - 76° 07.6377' W; running southwesterly to a point on the south shore 36° 16.2030' N - 76° 57.8897' W.
- (G) Public Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 17.2462' N - 75° 58.2774' W; running southerly to a point on the south shore 36° 17.2121' N - 75° 58.2788' W.
- (H) Cow Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 17.8667' N - 75° 58.3483' W; running southerly to a point on the marsh island 36° 17.7600' N - 75° 58.3300' W; running southerly following the eastern shoreline of the island to a point 36° 17.7122' N - 75° 58.3273' W; running southwesterly to a point on the south shore 36° 17.6522' N - 75° 58.3543' W.
- (I) Great Creek - Mouth: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.1045' N - 75° 58.4289' W; running southerly to a point on the south shore 36° 17 9882' N - 75° 58.4458' W. On north shore of Great Creek within the fourth tributary: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 18.1729' N - 75° 58.9137' W; running southeasterly to a point on the south shore 36° 18.1640' N - 75° 58.9022' W.
- (J) Indiantown Creek - All waters within this waterbody are designated as Inland.

(6) Carteret County:

- (a) Neuse River - All waters in this waterbody are designated as Coastal.
 - (i) Adams Creek - All waters in this waterbody are designated as Coastal.
 - (A) Back (Black) Creek - All waters in this waterbody are designated as Coastal.
 - (B) Cedar Creek - All waters in this waterbody are designated as Coastal.
 - (ii) Garbacon Creek - All waters in this waterbody are designated as Coastal.
 - (iii) South River - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 34° 53.5068' N - 76° 31.1233' W; running northeasterly to a point on the east shore 34° 53.4494' N - 76° 31.3032' W.
 - (A) Big Creek - All waters in this waterbody are designated as Coastal.
 - (B) Southwest Creek - All waters in this waterbody are designated as Coastal.
 - (C) West Fork - All waters in this waterbody are designated as Inland.
 - (D) East Creek - All waters in this waterbody are designated as Inland.
 - (E) Eastman Creek - All waters in this waterbody are designated as Coastal.
 - (iv) Browns Creek - All waters in this waterbody are designated as Coastal.
- (b) North River - All waters in this waterbody are designated as Coastal.
 - (i) Panther Cat Creek - All waters in this waterbody are designated as Coastal.
 - (ii) Cypress Creek - All waters in this waterbody are designated as Coastal.
- (c) Newport River - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 45.2478' N - 76° 46.4479' W; running southerly to a point on the south shore 34° 45.1840' N - 76° 46.4488' W.
 - (i) Core Creek - All waters in this waterbody are designated as Coastal.
 - (ii) Harlowe Creek - All waters in this waterbody are designated as Coastal.
 - (iii) Bogue Sound And Tributaries - All waters in this waterbody are designated as Coastal.
- (d) White Oak River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running easterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
 - (i) Pettiford Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 42.6935' N - 77° 04.0745' W; running along the west side of the Highway 58 bridge to a point on the south shore 34° 42.6569' N - 77° 04.0786' W.
 - (ii) Little Hadnotts Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 45.0839' N - 77° 06.5931' W; running northerly to an easterly point on the east shore 34° 45.0867' N - 77° 06.5780' W.
 - (iii) Hadnotts Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 45.9908' N - 77° 05.7847' W; running along the west side of the Highway 58 bridge to a

- point on the south shore 34° 45.9738' N - 77° 05.7810' W.
- (iv) Neds Creek - All waters in this waterbody are designated as Coastal.
 - (v) Hunters Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the northwest shore 34° 47.1205' N - 77° 09.9462' W; running southeasterly to a point on the southeast shore 34° 47.0947' N - 77° 09.9160' W.
- (7) Chowan County:
- (a) Albemarle Sound - All waters within this waterbody in Chowan County are designated as Coastal.
 - (i) All Manmade Tributaries - All manmade tributaries are designated as Joint.
 - (ii) Yeopim River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 05.4526' N - 76° 27.7651' W; running southerly to a point on the south shore at Norcum Point 36° 05.1029' N - 76° 27.7120' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 04.7426' N - 76° 24.2536' W; running southwesterly to a point on the south shore 36° 04.1136' N - 76° 24.5365' W.
 - (iii) Queen Anne Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 03.3757' N - 76° 36.3629' W; running southerly to a point on the south shore 36° 03.3551' N - 76° 36.3574' W.
 - (iv) Pembroke Creek (Pollock Swamp) - Inland Waters west and Coastal Waters east of a line beginning at a point on the west shore 36° 03.2819' N - 76° 37.0138' W; running northeasterly to a point on the east shore 36° 03.4185' N - 76° 36.6783' W.
 - (v) Chowan River - Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the west shore 36° 02.3162' N - 76° 42.4896' W; running northeasterly to a point on the east shore 36° 03.1013' N - 76° 40.8732' W.
 - (A) Rocky Hock Creek - Inland Waters east and Joint Waters west of a line beginning on the west shore at a point 36° 06.5662' N - 76° 41.3108' W; running southeasterly to a point on the east shore at 36° 06.6406' N - 76° 41.4512' W.
 - (B) Dillard (Indian) Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 14.2234' N - 76° 41.5901' W; running southerly to a point on the south shore 36° 14.2023' N - 76° 41.5855' W.
 - (C) Stumpy Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 16.6440' N - 76° 40.4251' W; running southerly to a point on the south shore 36° 16.6255' N - 76° 40.4196' W.
 - (D) Catherine (Warwick) Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 18.1011' N - 76°

- 41.1286' W;
running
southeasterly to a
point on the east
shore 36° 17.9413'
N - 76° 40.8627' W.
- (8) Columbus County:
- (a) Cape Fear River - All waters within this waterbody of Columbus County are designated as Joint.
- (i) Livingston Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 21.1518' N - 78° 12.0358' W; running easterly to a point on the east shore 34° 21.1420' N - 78° 12.0018' W.
- (ii) Waymans Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the west shore 34° 22.9861' N - 78° 14.5266' W; running southeasterly to a point on the east shore 34° 22.9838' N - 78° 14.5236' W.
- (9) Craven County:
- (a) Neuse River - Inland Waters west and Joint Waters east of a line at Pitch Kettle Creek beginning at a point on the north shore 35° 16.9793' N - 77° 15.5529' W; running south to a point on the south shore 35° 16.9237' N - 77° 15.5461' W. Joint Waters northwest and Coastal Waters southeast of a line beginning at a point on the east shore 35° 07.7096' N - 77° 01.6749' W; running southwesterly along the southern side of the Southern Railroad bridge to a point on the west shore 35° 07.1530' N - 77° 02.5570' W.
- (i) Adams Creek - All waters in this waterbody are designated as Coastal.
- (A) Back Creek - All waters in this waterbody are designated as Coastal.
- (ii) Courts Creek - Inland Waters east Joint Waters west of a line beginning at a point on the north shore 34° 56.6958' N - 76° 42.7175' W; running southwesterly to a point on the south shore 34° 56.6606' N - 76° 42.7450' W.
- (iii) Long Branch - Inland Waters south and Coastal Waters north of a line beginning on the west shore 34° 55.6189' N - 76° 43.8180' W; running easterly to a point on the east shore 34° 55.6175' N - 76° 43.7846' W.
- (iv) Clubfoot Creek - All waters in this waterbody are designated as Coastal.
- (A) Gulden Creek - All waters in this waterbody are designated as Coastal.
- (B) Mitchell Creek - All waters in this waterbody are designated as Coastal.
- (C) Morton Mill Pond - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 51.9245' N - 76° 45.7754' W; running southerly to a point on the south shore 34° 51.7799' N - 76° 45.8184' W.
- (v) Hancock Creek - Coastal Waters east and Inland Waters west of a line beginning on the north shore at 34° 56.3420' N - 76° 51.2809' W; running southerly to a point on the south shore at 34° 56.2731' N - 76° 51.3034' W.
- (vi) Slocum Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore at 34° 57.1875' N - 76° 53.7648' W; running southwesterly to a point on the south shore 34° 57.1334' N - 76° 53.8069' W.
- (vii) Scott Creek - Inland Waters west and Coastal Waters east of a line from a point on the north shore 35° 05.5723' N -

- 77° 02.0677' W; running southerly to a point on the south shore 35° 05.5316' N - 77° 02.0745' W.
- (viii) Trent River - Inland Waters west and Joint Waters east of a line at Wilson Creek beginning at a point on the north shore 35° 04.05490' N - 77° 06.0987' W; running southerly to a point on the south shore 35° 04.3837' N - 77° 06.1230' W. Joint Waters west and Coastal Waters east of a line on the western side of the Highway 70 Trent River Bridge beginning at a point on the north shore 35° 06.2136' N - 77° 02.1968' W; running southerly to a point on the south shore 35° 05.9351' N - 77° 02.2645' W.
- (A) Brice Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 04.5114' N - 77° 03.6433' W; running easterly to a point on the east shore 35° 04.5634' N - 77° 03.4469' W.
- (ix) Jack Smith Creek - Inland Waters southwest and Joint Waters northeast of a line beginning on the west shore 35° 07.5482' N - 77° 03.1613' W; running southeasterly to a point on the east shore 35° 07.5320' N - 77° 03.1338' W.
- (x) Bachelor Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 09.0099' N - 77° 04.5858' W; running southerly to a point on the south shore 35° 08.9085' N - 77° 04.7172' W.
- (xi) Dollys Gut - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 13.6303' N - 77° 09.9847' W; running southerly to a point on the south shore 35° 13.5937' N - 77° 09.9778' W.
- (xii) Greens Thoroughfare - Easternmost entrance: Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the north shore 35° 13.7807' N - 77° 09.9224' W; running southwesterly to a point on the south shore 35° 13.7587' N - 77° 09.9728' W. Westernmost entrance: Inland Waters south and Joint Waters north of a line beginning on the west shore 35° 14.1398' N - 77° 11.5530' W; running easterly to a point on the east shore 35° 14.1481' N - 77° 11.5036' W.
- (xiii) Greens Creek - Inland Waters west and Joint Waters east of a line beginning on the north shore 35° 14.1883' N - 77° 11.8862' W; running southeasterly to a point on the south shore 35° 14.1389' N - 77° 11.7535' W.
- (xiv) Turkey Quarter Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 15.6738' N - 77° 14.6823' W; running southeasterly to a point on the east shore 35° 15.6534' N - 77° 14.6470' W.
- (xv) Pitch Kettle Creek - All waters within this waterbody are designated as Inland.
- (xvi) Taylors Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 14.3719' N - 77° 10.8050' W; running southwesterly to a point on the south shore 35° 14.3300' N - 77° 10.8352' W.
- (xvii) Pine Tree Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 12.6663' N - 77° 07.4285' W; running southwesterly to a point on the south shore 35° 12.7033' W.

- N - 77° 07.3594' W. Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 12.8553' N - 77° 07.8300' W; running easterly to a point on the east shore 35° 12.8372' N - 77° 07.7934' W. Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 13.2012' N - 77° 08.7753' W; running southeasterly to a point on the east shore 35° 13.1714' N - 77° 08.7071' W.
- (xviii) Stumpy Creek - Southern entrance: Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the north shore 35° 11.5752' N - 77° 06.1866' W; running southwesterly to a point on the south shore 35° 11.5550' N - 77° 06.2411' W. Northern entrance: Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 11.9377' N - 77° 06.7263' W; running southeasterly to a point on the south shore 35° 11.9169' N - 77° 06.7044' W.
- (xix) Swift Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 11.5972' N - 77° 06.0562' W; running easterly to a point on the east shore 35° 11.5816' N - 77° 05.9861' W.
- (xx) Mill Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 08.5041' N - 77° 02.3400' W; running south easterly to a point on the south shore 35° 08.4711' N - 77° 02.3176' W.
- (xxi) Duck Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the north shore 35° 05.7648' N - 77° 00.5191' W; running south easterly to a point on the south shore at 35° 05.6803' N - 77° 00.4179' W.
- (xxii) Northwest Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 03.5096' N - 76° 58.2604' W; running northeasterly to a point on the east shore at 35° 03.5948' N - 76° 58.0297' W.
- (xxiii) Upper Broad Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 04.5050' N - 76° 56.5269' W; running easterly along the Tideland EMC power lines to a point on the east shore at 35° 04.4705' N - 76° 56.2115' W.
- (10) Currituck County:
- (a) Albemarle Sound - All waters within Albemarle Sound in Currituck County are designated as Coastal.
- (i) All Manmade Tributaries - All Manmade Tributaries to Albemarle Sound in Currituck County are designated as Joint.
- (ii) North River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.7703' N - 75° 58.7384' W; running southerly to a point on the south shore 36° 18.4130' N - 75° 58.7228' W. Joint Waters north and Coastal Waters south of a line beginning on the west shore 36° 09.8986' N - 75° 54.6771' W; running easterly to a point on the east shore 36° 10.0108' N - 75° 52.0431' W.
- (A) Duck Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 12.4056' N - 75° 54.2967' W; running

- (B) southeasterly to a point on the east shore 36° 12.1865' N - 75° 54.0298' W. Barnett Creek - Inland Waters northeast and Joint Waters southwest of line beginning at a point on the north shore 36° 14.2405' N - 75° 55.0112' W; running southeasterly to a point on the south shore 36° 14.0956' N - 75° 54.9774' W.
- (C) Lutz Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 36° 14.7397' N - 75° 55.4914' W; running southeasterly to a point on the east shore 36° 14.4948' N - 75° 55.1989' W.
- (D) Goose Pond - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 15.5152' N - 75° 57.0936' W; running easterly to a point on the east shore 36° 15.4016' N - 75° 56.7842' W. Also south of a line beginning at a point on the west shore 36° 16.0334' N - 75° 57.1018' W; running easterly to a point on the east shore 36° 16.0301' N - 75° 57.0629' W.
- (E) Deep Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 17.1576' N - 75° 56.7594' W; running southerly to a point on the south shore 36° 16.9846' N - 75° 56.6802' W.
- (F) Narrow Ridges Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 18.3249' N - 75° 57.8910' W; running southerly to a point on the south shore 36° 18.1388' N - 75° 57.9029' W.
- (G) Bump Landing Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 19.3757' N - 75° 57.9057' W; running southerly to a point on the south shore 36° 19.2496' N - 75° 57.9107' W.
- (H) Taylor Bay - All waters within Taylor Bay are designated Joint.
- (I) Intracoastal Waterway From Taylor Bay To Coinjock Bay - All waters within the IWW are designated Joint.
- (J) Indiantown Creek - All waters within this waterbody are designated Inland.
- (b) Currituck Sound - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore of Currituck Sound 36° 04.8195' N - 75° 47.4101' W; running easterly to a point on the east shore 36° 05.5739' N - 75° 44.5729' W.
- (i) All Manmade Tributaries - All manmade tributaries within this waterbody are designated as Joint.

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| <p>(ii) Coinjock Bay - All waters within this waterbody are designated as Joint.</p> <p>(iii) Nelson (Nells) Creek - Northern entrance: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 16.5806' N - 75° 52.1168' W; running northeasterly to a point on the east shore 36° 16.6410' N - 75° 51.9580' W. Southern entrance: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 15.9816' N - 75° 51.7245' W; running southerly to a point on the south shore 36° 15.8640' N - 75° 51.6897' W.</p> <p>(iv) Hog Quarter Creek - Northernmost entrance: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 07.7400' N - 75° 48.6254' W; running southerly to a point on the south shore 36° 07.7210' N - 75° 48.6135' W. Southernmost entrance: Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 07.4118' N - 75° 48.4986' W; running southerly to a point on the south shore 36° 07.3532' N - 75° 48.5110' W.</p> <p>(v) Parkers Creek - Inland Waters northwest and Joint Waters southeast of a line beginning on the west shore 36° 22.1079' N - 75° 55.5459' W; running northeasterly to a point on the east shore 36° 22.1607' N - 75° 55.4512' W. Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 22.3928' N - 75° 55.6970' W; running northeasterly to a point on the east shore 36° 22.4011' N - 75° 55.6782' W.</p> | <p>(vi) North Landing River - All waters in this waterbody are designated as Joint.</p> <p>(A) Northwest River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore of 36° 30.8374' N - 76° 04.8770' W; running southerly to a point on the south shore 36° 30.7061' N - 76° 04.8916' W.</p> <p>(I) Gibbs Canal - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 32.2322' N - 76° 01.8923' W; running southerly to a point on the south shore 36° 32.1997' N - 76° 01.8937' W.</p> <p>(II) Tull Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 30.0991' N - 76°</p> |
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- 04.8587'
W;
running
southeasterly to a
point on
the south
shore 36°
29.9599' N
- 76°
04.7126'
W.
- (B) West Landing - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 30.9867' N - 76° 02.5868' W; running easterly to a point on the east shore 36° 31.0045' N - 76° 02.3780' W.
- (11) Dare County:
- (a) Alligator River - Coastal Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 54.2903' N - 76° 01.6818' W; running along the south side of the US 64 bridge to a point on the east shore 35° 53.6835' N - 75° 58.8578' W.
- (i) Whipping Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 41.3930' N - 76° 00.2481' W; running southerly to a point on the south shore 35° 41.3717' N - 76° 00.2554' W.
- (ii) Swan Creek and Lake - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 40.2674' N - 76° 00.7360' W; running southerly to a point on the south shore 35° 40.2420' N - 76° 00.7548' W.
- (iii) Milltail Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 50.5192' N - 75° 58.6134' W; running southerly to a point on the south shore 35° 50.4956' N - 75° 58.6158' W.
- (iv) Laurel Bay Lake (Creek) - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 52.4036' N - 75° 58.8560' W; running southerly to a point on the south shore 35° 52.3960' N - 75° 58.8528' W.
- (v) East Lake - Coastal Waters west and Inland Waters east of a line beginning at a point on the north shore 35° 56.1676' N - 75° 55.2603' W; running southerly to a point on the south shore 35° 55.4727' N - 75° 55.5043' W. Joint Waters north and Inland Waters south of a line beginning at a point on the west shore 35° 58.6402' N - 75° 52.1855' W; running easterly to a point on the east shore 35° 58.5887' N - 75° 51.7080' W.
- (b) Albemarle Sound - All waters in this waterbody in Dare County are designated as Coastal.
- (i) All Manmade Tributaries - All manmade tributaries in Dare County for this waterbody are designated as Joint.
- (ii) Kitty Hawk Bay - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 03.1967' N - 75° 44.3087' W; running easterly to a point on the east shore 36° 03.1871' N - 75° 44.2716' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 03.1338' N - 75° 44.2423' W; running southerly to a point on the south shore 36° 03.0919' N - 75° 44.2533' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 02.9960' N - 75° 44.2840' W; running southerly to a point on the south shore 36° 02.9592' N - 75° 44.2291' W. Joint

- Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 02.4964' N - 75° 44.2089' W; running southerly to a point on the south shore 36° 01.3270' N - 75° 43.6422' W.
- (iii) Peter Mashoes Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 57.2344' N - 75° 48.3087' W; running southerly to a point on the south shore 35° 56.7805' N - 75° 48.3563' W.
- (iv) Tom Mann Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 58.5296' N - 75° 52.8982' W; running easterly to a point on the east shore 35° 58.5175' N - 75° 53.6851' W.
- (v) Collington Harbor - Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 36° 01.0828' N - 75° 43.6070' W; running southerly to a point on the south shore 36° 01.0510' N - 75° 43.6015' W.
- (c) Croatan Sound - All waters in this waterbody in Dare County are designated as Coastal.
- (i) All Manmade Tributaries - All waters in this waterbody are designated as Joint.
- (ii) Spencer Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.4205' N - 75° 45.0645' W; running southerly to a point on the south shore 35° 51.3876' N - 75° 45.0640' W. Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.5597' N - 75° 45.0141' W; running southerly to a point on the south shore 35° 51.4624' N - 75° 45.0498' W. Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.6783' N - 75° 44.9125' W; running southerly to a point on the south shore 35° 51.5693' N - 75° 45.0109' W.
- (iii) Calahan Creek (Callaghan Creek) - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 51.1312' N - 75° 45.1327' W; running southwesterly to a point on the south shore 35° 51.0953' N - 75° 45.1629' W.
- (d) Roanoke Sound - All waters in this waterbody in Dare County are designated as Coastal.
- (i) Buzzard Bay - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 59.6662' N - 75° 41.8400' W; running easterly to a point on the east shore 35° 59.4376' N - 75° 40.5770' W.
- (e) Pamlico Sound - All waters in this waterbody in Dare County are designated as Coastal.
- (i) Stumpy Point Bay - All waters in this waterbody are designated as Coastal.
- (A) All Manmade Tributaries - All waters in this waterbody are designated as Joint.
- (ii) Long Shoal River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 38.7661' N - 75° 53.4429' W; running easterly to a point on the east shore 35° 38.7641' N - 75° 53.4159' ~~W~~ W.
- (A) All Manmade Tributaries - All waters in this waterbody are designated as Joint.
- (B) Pains Bay - All waters in this waterbody are designated as Coastal.

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| <p>(I) Pains Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 36.4464' N - 75° 49.0420' W; running easterly to a point on the east shore 35° 36.4439' N - 75° 49.0324' W.</p> | <p>(a) Chowan River - All waters within this waterbody for Gates County are designated as Joint.</p> | <p>(i) Catherine (Warwick) Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 36° 18.1011' N - 76° 41.1286' W; running southeasterly to a point on the east shore 36° 17.9413' N - 76° 40.8627' W.</p> |
| | | <p>(ii) Bennetts Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 18.3499' N - 76° 42.0286' W; running northeasterly to a point on the east shore 36° 18.4057' N - 76° 41.6986' W.</p> |
| | | <p>(iii) Beef Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 20.3235' N - 76° 44.6401' W; running easterly to a point on the east shore 36° 20.3070' N - 76° 44.5797' W.</p> |
| <p>(C) Deep Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 37.8971' N - 75° 51.3125' W; running easterly to a point on the east shore 35° 37.8840' N - 75° 51.2928' W.</p> | <p>(iv) Sarem Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 36° 21.7259' N - 76° 46.4085' W; running southerly to a point on the south shore 36° 21.6748' N - 76° 46.4392' W.</p> | |
| <p>(f) Currituck Sound - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 04.8195' N - 75° 47.4101' W; running easterly to a point on the east shore 36° 05.5739' N - 75° 44.5729' W.</p> | <p>(v) Shingle (Island) Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the north shore of the westernmost entrance into Chowan River 36° 21.8449' N - 76° 48.0940' W; running southeasterly to a point on the south shore 36° 21.7831' N - 76° 48.0427' W. At the easternmost entrance to the creek: Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 21.8469' N - 76° 47.2668' W; running northeasterly to a point on the east shore 36° 21.9062' N - 76° 47.1862' W.</p> | |
| <p>(i) All Manmade Tributaries - All manmade tributaries are designated as Joint.</p> | | |
| <p>(ii) Martin Point Creek (Jean Guite Creek) - Inland Waters south Joint Waters north of a line beginning at a point on the west shore 36° 07.6716' N - 75° 44.9656' W; running easterly to a point on the east shore 36° 07.7568' N - 75° 44.6823' W.</p> | | |
- (12) Gates County:

- (vi) Barnes Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the western shore 36° 21.8820' N - 76° 48.6419' W; running easterly to a point on the east shore 36° 21.8978' N - 76° 48.5902' W.
 - (vii) Spikes Creek - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 36° 22.6515' N - 76° 50.8882' W; running northeasterly to a point on the east shore 36° 22.6684' N - 76° 50.8493' W.
 - (viii) Buckhorn Creek (Run Off Swamp) - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 22.9682' N - 76° 51.9172' W; running easterly to a point on the east shore 36° 22.9614' N - 76° 51.8870' W.
 - (ix) Mud Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 23.5134' N - 76° 53.9131' W; running easterly to a point on the east shore 36° 23.5132' N - 76° 53.8815' W.
 - (x) Somerton Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 31.7177' N - 76° 54.8327' W; running easterly to a point on the east shore 36° 31.7143' N - 76° 54.7810' W.
- (13) Halifax County:
- (a) Roanoke River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 36° 12.5264' N - 77° 23.0223' W; running northeasterly along the south side of the Highway 258 Bridge to a point on the east shore 36° 12.5674' N - 77° 22.9724' W.
 - (i) Kehukee Swamp - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 05.1942' N - 77° 18.9596' W; running southwesterly to a point on the south shore 36° 05.1670' N - 77° 18.9761' W.
 - (ii) Clarks Canal - Inland Waters north and Joint Waters south of a line of a line beginning at a point on the west shore 36° 04.6165' N - 77° 19.5817' W; running easterly to a point on the east shore 36° 04.6215' N - 77° 19.5643' W.
- (14) Hertford County:
- (a) Chowan River - All waters within this waterbody for Hertford County are designated as Joint.
 - (i) Keel (Currituck) Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 14.1245' N - 76° 44.1961' W; running easterly to a point on the east shore 36° 14.0899' N - 76° 43.8533' W.
 - (ii) Swain Mill (Taylor Pond) Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 18.5808' N - 76° 43.4729' W; running southerly to a point on the south shore 36° 18.5616' N - 76° 43.4706' W.
 - (iii) Goose Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 19.5838' N - 76° 44.5971' W; running southerly to a point on the south shore 36° 19.5375' N - 76° 44.5925' W.
 - (iv) Wiccacon River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 20.5439' N - 76° 45.4550' W; running southeasterly to a point on the south shore 36° 20.4684' N - 76° 45.3392' W.
 - (v) Hodges Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 21.2459' N -

- 76° 46.3421' W; running southerly to a point on the south shore 36° 21.1823' N - 76° 46.3243' W.
- (vi) Catherine Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 22.9579' N - 76° 53.1994' W; running southeasterly to a point on the east shore 36° 22.9456' N - 76° 53.1742' W.
- (vii) Harris (Hares) Mill Creek - All waters within this waterbody are designated as Inland.
- (viii) Meherrin River - All waters within this waterbody are designated as Joint.
- (A) Potecasi Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the west shore 36° 26.1234' N - 76° 57.5262' W; running southeasterly to a point on the east shore 36° 26.1005' N - 76° 57.4960' W.
- (B) Liverman Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 26.7244' N - 76° 58.2797' W; running easterly to a point on the east shore 36° 26.7086' N - 76° 58.2499' W.
- (C) Vaughan's Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 28.3541' N - 77° 05.6259' W; running southerly to a point on the south shore 36° 28.3307' N - 77° 05.6369' W.
- (D) Banks Creek - All waters in this waterbody are designated as Inland.
- (ix) Buckhorn Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 31.9519' N - 76° 55.2580' W; running easterly to a point on the east shore 36° 31.9628' N - 76° 55.2429' W.
- (15) Hyde County:
- (a) Pamlico Sound - All waters within this waterbody in Hyde County are designated as Coastal.
- (i) Pungo River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 34.2702' N - 76° 30.1354' W; running northeasterly to a point on the east shore 35° 34.3192' N - 76° 30.0238' W. Joint Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 32.0974' N - 76° 29.6067' W; running southerly to a point on the south shore 35° 30.2620' N - 76° 29.3843' W.
- (A) Rutman Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 33.1874' N - 76° 27.4090' W; running easterly to a point 35° 33.1759' N - 76° 27.2525' W; running northeasterly to a point on the east shore 35° 33.2455' N - 76° 26.9119' W.
- (B) Wilkerson Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 33.1251' N - 76° 27.2328' W; running northerly to

- a point 35° 33.1553' N - 76° 27.2447' W; running easterly to a point on the east shore 35° 33.3286' N - 76° 26.2019' W.
- (C) Atlantic Intracoastal Waterway From Wilkerson Creek To Alligator River At Winn Bay - All waters within this part of the Intracoastal Waterway are designated as Joint.
- (D) Horse Island Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 32.1965' N - 76° 28.0462' W; running southerly to a point on the south shore 35° 32.1480' N - 76° 28.0705' W.
- (E) Tarklin Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 31.1553' N - 76° 28.1478' W; running southeasterly to a point on the south shore 35° 31.0974' N - 76° 28.0984' W.
- (F) Scranton Creek - Inland Waters east and Joint Waters west of line beginning at a point on the north shore 35° 30.0080' N - 76° 26.7759' W; running southerly to a point on the south shore 35° 29.9574' N - 76° 26.7750' W.
- (G) Smith Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 30.2812' N - 76° 29.7546' W; running southeasterly to a point on the east shore 35° 30.1904' N - 76° 29.4657' W.
- (H) Fishing Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the west shore 35° 30.2400' N - 76° 35.0143' W; running southeasterly to a point on the east shore 35° 30.0645' N - 76° 34.8211' W.
- (I) Slades Creek - All waters within this waterbody are designated as Coastal.
- (J) Fortescue Creek - All waters within this waterbody are designated as Coastal.
- (ii) Rose Bay - All waters within this waterbody are designated as Coastal.
- (A) Rose Bay Creek - All waters within this waterbody are designated as Coastal.
- (B) Rose Bay Canal - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 35° 28.5607' N - 76° 19.6545' W; running southerly to a point on the south shore 35° 28.5509' N - 76° 19.6572' W. Joint Waters north and Coastal Waters south of a line beginning at a point

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| | <p>on the west shore
 35° 27.8491' W -
 76° 24.2198' W;
 running easterly to
 a point on the east
 shore 35° 27.8404'
 N - 76° 24.2065' W.</p> | | <p>Joint Waters north
 and Coastal waters
 south of a line
 beginning at a point
 on the west shore
 35° 21.4945' N -
 76° 06.5336' W;
 running
 northeasterly to a
 point on the east
 shore 35° 21.5480'
 N - 76° 06.4819' W.</p> |
| (iii) | <p>Swan Quarter Bay - All
 waters within this waterbody
 are designated as Coastal.</p> <p>(A) Oyster Creek - All
 waters within this
 waterbody are
 designated as
 Coastal.</p> | (B) | <p>Lake Landing
 Canal - Inland
 Waters north and
 Joint Waters south
 of a line beginning
 at a point on the
 west shore 35°
 28.7878' N - 76°
 04.5867' W;
 running easterly to
 a point on the east
 shore 35° 28.7910'
 N - 76° 04.5726' W.</p> |
| (iv) | <p>Juniper Bay - All waters
 within this waterbody are
 designated as Coastal.</p> <p>(A) Juniper Bay Creek -
 Joint Waters east
 and Coastal Waters
 west of a line
 beginning at a point
 on the north shore
 35° 23.2472' N -
 76° 14.8754' W;
 running
 southwesterly to a
 point on the south
 shore 35° 23.1738'
 N - 76° 14.9794' W.</p> <p>(B) Juniper Bay Creek
 Canal - Inland
 Waters north and
 Joint Waters south
 of a line beginning
 at a point on the
 west shore 35°
 23.8618' N - 76°
 13.1044' W;
 running easterly to
 a point on the east
 shore 35° 23.8677'
 N - 76° 13.0888' W.</p> | | <p>Joint Waters north
 and Coastal Waters
 south of a line
 beginning at a point
 on the west 35°
 25.9529' N - 76°
 03.6785' W;
 running easterly to
 a point on the east
 shore 35° 25.9568'
 N - 76° 03.6566' W.</p> |
| (v) | <p>Lake Mattamuskeet - All
 waters in this waterbody are
 designated as Inland.</p> <p>(A) Outfall Canal -
 Inland Waters north
 and Joint Waters
 south of a line
 beginning at a point
 on the west shore
 35° 26.6017' N -
 76° 10.1715' W;
 running easterly to
 a point on the east
 shore 35° 26.6093'
 N - 76° 10.1513' W.</p> | (C) | <p>Waupopin Canal -
 Inland Waters west
 and Joint Waters
 east of a line
 beginning at a point
 on the north shore
 35° 31.8413' N -
 76° 01.7779' W;
 running southerly
 to a point on the
 south shore 35°
 31.8283' N - 76°</p> |

- 01.7637' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the west shore 35° 31.5557' N - 75° 58.8725' W; running easterly to a point on the east shore 35° 31.5648' N - 75° 58.8555' W.
- (D) Rattlesnake Canal - Joint Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 26.6965' N - 76° 00.8079' W; running easterly to a point on the east shore 35° 26.7116' N - 76° 00.7749' W.
- (E) All Other Manmade Tributaries To Lake Mattamuskeet - All manmade tributaries of this waterbody are designated as Inland.
- (vi) Middletown Creek - All waters within this waterbody are designated as Coastal.
- (vii) Long Shoal River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 38.7661' N - 75° 53.4429' W; running easterly to a point on the east shore 35° 38.7641' N - 75° 53.4159' W.
- (A) All Manmade Tributaries - All manmade tributaries of this waterbody are designated as Joint.
- (B) Broad Creek - All waters within this waterbody are designated as Coastal.
- (C) Flag Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the west shore 35° 37.3782' N - 75° 53.0699' W; running easterly to a point on the east shore 35° 37.3894' N - 75° 53.0593' W.
- (D) Cumberland Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 38.3026' N - 75° 53.3010' W; running southerly to a point on the south shore 35° 38.2692' N - 75° 53.3038' W.
- (b) Alligator River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore at Cherry Ridge Landing 35° 42.2172' N - 76° 08.4686' W; running southerly to a point on the south shore 35° 42.1327' N - 76° 08.5002' W.
- Swan Creek and Lake - All waters within this waterbody are designated as Inland.
- (16) Jones County:
- (a) White Oak River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running easterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
- (i) Grants Creek - All waters within this waterbody are designated as Inland.
- (ii) Hunters Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the northwest shore 34° 47.1205' N - 77° 09.9462' W; running southeasterly to a point on the southeast shore 34° 47.0947' N - 77° 09.9160' W.
- (17) Martin County:
- (a) Roanoke River - All waters within this waterbody in Martin County are designated as Joint.
- (i) Prices Gut - Inland Waters west and Joint Waters east of

- a line beginning at a point on the north shore 35° 57.3701' N - 77° 11.9815' W; running southerly to a point on the south shore 35° 57.3552' N - 77° 11.9796' W.
- (ii) Rainbow Gut - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 55.9334' N - 77° 11.3246' W; running easterly to a point on the east shore 35° 55.9275' N - 77° 11.3136' W.
- (iii) Conoho Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 35° 52.5439' N - 77° 02.6673' W; running easterly to a point on the east shore 35° 52.5407' N - 77° 02.6280' W.
- (iv) Sweetwater Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the west shore 35° 51.6464' N - 77° 00.5090' W; running southeasterly to a point on the east shore 35° 51.6252' N - 77° 00.4879' W.
- (A) Peter Swamp - All waters within this waterbody are designated as Inland.
- (v) Devils Gut - All waters in this waterbody are designated as Joint.
- (A) Upper Deadwater Creek - All waters in this waterbody are designated Joint.
- (B) Lower Deadwater Creek - All waters in this waterbody are designated Joint.
- (C) Gardner Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 50.1599' N - 76° 56.0211' W; running easterly to a point on the east shore 35° 50.1633' N - 76° 55.9899' W.
- (vi) Roses Creek - Inland Waters southeast and Joint Waters northwest of a line beginning at a point on the north shore 35° 50.1683' N - 76° 50.9664' W; running southwesterly to a point on the south shore 35° 50.1363' N - 76° 56.9907' W.
- (vii) Welch Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the western shore 35° 51.8458' N - 76° 45.8381' W; running easterly along the shoreline and across the mouths of the three creek entrances to a point on the east shore 35° 51.8840' N - 76° 45.6207' W.
- (18) New Hanover County:
- (a) Cape Fear River - Joint Waters north and Coastal Waters south of a line beginning at a point on the western side 34° 13.6953' N - 77° 57.2396' W; running southeasterly along the southern side of US 17-74-76 bridge to a point on the eastern side 34° 13.6214' N - 77° 57.0341' W.
- (i) Lords Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 05.1562' N - 77° 55.3816' W; running southerly to a point on the south shore 34° 05.1303' N - 77° 55.4008' W.
- (ii) Todds Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 07.4791' N - 77° 55.5175' W; running southeasterly to a point on the south shore 34° 07.4578' N - 77° 55.5116' W.
- (iii) Barnards Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 09.4347' N - 77° 56.5969' W; running southerly to a point on the

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| | south shore 34° 09.3887' N - 77° 56.5791' W. | | 34° 16.0366"N - 77° 56.8405' W; |
| (iv) | Greenfield Lake Outlet - Greenfield Lake Outlet Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 12.7210' N - 77° 57.2058' W; running southerly to a point on the south shore 34° 12.7075' N - 77° 57.2085' W. | | running southeasterly to a point on the south shore 34° 15.9919' N - 77° 56.7961' W. |
| (v) | Tommer Creek - For the southernmost entrance into the Cape Fear: Inland Waters northwest and Joint Waters southwest of a line beginning at a point on the west shore 34° 15.6397' N - 77° 58.9608' W; running northeasterly to a point on the east shore 34° 15.6589' N - 77° 58.9338' W. For the northernmost entrance into the Cape Fear: Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 16.6630' N - 77° 59.4699' W; running northeasterly to a point on the east shore 34° 16.6767' N - 77° 59.4506' W. | (B) | Ness Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 17.1741' N - 77° 57.2460' W; running southeasterly to a point on the south shore 34° 17.1494' N - 77° 57.2044' W. |
| | | (C) | Dock Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 18.1274' N - 77° 57.3847' W; running southwesterly to a point on the south shore 34° 18.1173' N - 77° 57.3678' W. |
| (vi) | Catfish Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 16.7546' N - 77° 59.3751' W ; running southeasterly to a point on the south shore 34° 16.7118' N - 77° 59.3870' W. | (D) | Fishing Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 19.1613' N - 77° 57.2460' W; running |
| (vii) | Northeast Cape Fear River - Inland Waters north and Joint Waters south of a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of NC 210 bridge to a point on the east side 34° 26.6065' N - 77° 49.9955' W. | (E) | Prince George Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 21.8481' N - 77° 57.0066' W; running |
| | (A) Smiths Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore | | northeasterly to a point on the east |

- shore 34° 21.8778' N - 77° 57.9755' W.
- (F) Sturgeon Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 34° 22.6796' N - 77° 51.6018' W; running northeasterly to a point on the east shore 34° 22.6931' N - 77° 51.5776' W.
- (G) Island Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 23.2509' N - 77° 47.3377' W; running northeasterly to a point on the north shore 34° 23.3322' N - 77° 49.3208' W.
- (19) Northampton County:
- (a) Roanoke River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 36° 12.5264' N - 77° 23.0223' W; running northeasterly along the south side of the Highway 258 Bridge to a point on the east shore 36° 12.5674' N - 77° 22.9724' W.
- (i) Sandy Run (Norfleet Gut) - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 10.1119' N - 77° 17.5396' W; running northeasterly to a point on the east shore 36° 10.1172' N - 77° 17.5316' W.
- (b) Meherrin River - All waters of Meherrin River up to the Virginia state line within Northampton County are designated as Joint.
- (i) Vaughan's Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 28.3541' N - 77° 05.6259' W; running southerly to a point on the south shore 36° 28.3307' N - 77° 05.6369' W.
- (20) Onslow County:
- (a) Beasleys Creek (Barlow Creek) - All waters within this waterbody are designated as Coastal.
- (b) Kings Creek - All waters within this waterbody are designated as Coastal.
- (c) Turkey Creek - All waters within this waterbody are designated as Coastal.
- (d) Mill Creek - All waters within this waterbody are designated as Coastal.
- (e) New River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 45.1654' N - 77° 26.1222' W; running easterly along the southern side of the US Hwy 17 bridge to a point on the east shore 34° 45.2007' N - 77° 25.9790' W.
- (i) Wheeler Creek - All waters within this waterbody are designated as Coastal.
- (ii) Everett Creek - All waters within this waterbody are designated as Coastal.
- (iii) Stones Creek - All waters within this waterbody are designated as Coastal.
- (iv) Muddy Creek - All waters within this waterbody are designated as Coastal.
- (v) Mill Creek - All waters within this waterbody are designated as Coastal.
- (vi) Lewis Creek - All waters within this waterbody are designated as Coastal.
- (vii) Southwest Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 40.8723' N - 77° 26.2399' W; running northeasterly to a point on the east shore 34° 40.9112' N - 77° 26.1758' W.
- (viii) Brinson Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 44.0945' N - 77° 26.4335' W; running southerly to a point on the south shore 34° 44.0654' N - 77° 26.4239' W.
- (ix) Northeast Creek - Inland Waters northeast and Coastal Waters southwest of a line

- beginning at a point on the west shore 34° 44.0778' N - 77° 21.2640' W; running southeasterly along the southern side of the railroad bridge to a point on the east shore 34° 44.0446' N - 77° 21.2126' W.
- (x) Wallace Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 40.9604' N - 77° 21.5698' W; running southwesterly along the western side of the first bridge upstream from the mouth, to a point on the south shore 34° 40.8576' N - 77° 21.4787' W.
- (xi) Codels Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 38.8845' N - 77° 20.4533' W; running southerly to a point on the south shore 34° 38.8691' N - 77° 20.4515' W.
- (xii) French Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 34° 38.4059' N - 77° 20.2619' W; running southerly to a point on the south shore 34° 38.2566' N - 77° 20.3233' W.
- (xiii) Duck Creek - Inland Waters southwest and Coastal Waters northeast of a line beginning at a point on the north shore 34° 38.0179' N - 77° 20.5169' W; running southwesterly to a point on the south shore 34° 37.9172' N - 77° 20.6520' W.
- (f) Freeman (Browns) Creek - All waters within this waterbody are designated as Coastal.
- (g) Bear Creek - All waters within this waterbody are designated as Coastal.
- (h) Queens Creek - Inland Waters ~~north west~~ and Coastal Waters ~~south east~~ of a line beginning at a point on the ~~west north~~ shore 34° 42.1815' N - 77° 11.5690' W; 34° 42.5696' N - 77° 11.8550' W; running ~~easterly~~ southerly to a point on the ~~east south~~ shore 34° 42.2273' N - 77° 11.4193' W. 34° 42.4238' N - 77° 11.8550' W.
- (i) Parrotts Swamp - All waters within this waterbody are designated as Coastal.
- (i) White Oak River - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 34° 48.1466' N - 77° 11.4711' W; running northeasterly to a point on the east shore 34° 48.1620' N - 77° 11.4244' W.
- (i) Stevens Creek - All waters within this waterbody are designated as Coastal.
- (ii) Holland Mill (Mill Pond) Creek - All waters within this waterbody are designated as Coastal.
- (iii) Webbs Creek - Inland Waters northwest and Coastal Waters southeast of a line beginning at a point on the north shore 34° 45.7559' N - 77° 10.1321' W; running southwesterly to a point on the south shore 34° 45.7404' N - 77° 10.1486' W.
- (iv) Freemans Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 46.9791' N - 77° 10.3935' W; running southerly to a point on the south shore 34° 46.9663' N - 77° 10.3999' W.
- (v) Calebs Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 34° 48.1354' N - 77° 11.4688' W; running southeasterly to a point on the south shore 34° 48.1192' N - 77° 11.4546' W.
- (vi) Grants Creek - All waters within this waterbody are designated as Inland.
- (21) Pamlico County:
- (a) Pamlico River - All waters within this waterbody are designated as Coastal.
- (i) Lower Goose Creek - All waters within this waterbody are designated as Coastal.
- (A) Dixons Creek - All waters within this waterbody are

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| | designated as Coastal. | | designated as Coastal. |
| (B) | Patons Creek - All waters within this waterbody are designated as Coastal. | (B) | James Creek - All waters within this waterbody are designated as Coastal. |
| (C) | Wilson Creek - All waters within this waterbody are designated as Coastal. | (b) | Pamlico Sound - All waters within this waterbody are designated as Coastal. |
| (D) | Eastham Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 17.8205' N - 76° 35.1828' W; running southerly to a point on the south shore 35° 17.6797' N - 76° 35.1840' W. | (i) | Porpoise Creek - All waters within this waterbody are designated as Coastal. |
| (E) | Upper Spring Creek - All waters within this waterbody are designated as Coastal. | (ii) | Drum Creek - All waters within this waterbody are designated as Coastal. |
| (F) | Intracoastal Waterway from Upper Spring Creek To Gale Creek - All waters within this waterbody are designated as Coastal. | (iii) | Bay River - Inland Waters south and Coastal Waters north of a line beginning at a point on the north shore 35° 08.4601' N - 76° 45.9173' W; running southeasterly to a point on the south shore 35° 08.4436' N - 76° 45.8885' W. |
| (G) | Hunting Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 16.7523' N - 76° 36.8138' W; running easterly to a point on the east shore 35° 16.6779' N - 76° 36.5885' W. | (A) | Gale Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 13.3142' N - 76° 36.7089' W; running southwesterly to a point on the south shore 35° 13.2964' N - 76° 36.7222' W. |
| (ii) | Oyster Creek - All waters within this waterbody are designated as Coastal. | (B) | Chadwick Creek - All waters within this waterbody are designated as Coastal. |
| (iii) | Clark Creek - All waters within this waterbody are designated as Coastal. | (C) | Bear Creek - All waters within this waterbody are designated as Coastal. |
| (A) | Middle Prong - All waters within this waterbody are | (D) | Vandemere Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 12.0330' N - 76° 40.7460' W; running northeasterly to a point on the east |

- shore 35° 12.0433'
N - 76° 40.7235' W.
- (I) Long Creek - All waters within this waterbody are designated as Coastal.
- (E) Smith Creek - All waters within this waterbody are designated as Coastal.
- (F) Chapel Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 10.0076' N - 76° 42.4909' W; running easterly to a point on the east shore 35° 10.0096' N - 76° 42.4722' W.
- (G) Raccoon Creek - All waters within this waterbody are designated as Coastal.
- (H) Trent Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 06.2738' N - 76° 43.1071' W; running southeasterly to a point on the east shore 35° 06.2603' N - 76° 43.0741' W.
- (I) Thomas Creek - Inland Waters east and Coastal Waters west of a line beginning at a point on the north shore 35° 07.2024' N - 76° 43.0929' W; running southerly to a point on the south shore 35° 07.1610' N - 76° 43.0947' W.
- (iv) Masons Creek - All waters within this waterbody are designated as Coastal.
- (v) Moore Creek - All waters within this waterbody are designated as Coastal.
- (vi) Rices Creek - All waters within this waterbody are designated as Coastal.
- (vii) Ball Creek - All waters within this waterbody are designated as Coastal.
- (viii) Cabin Creek - All waters within this waterbody are designated as Coastal.
- (ix) Riggs Creek - All waters within this waterbody are designated as Coastal.
- (x) Spring Creek - All waters within this waterbody are designated as Coastal.
- (xi) Long Creek - All waters within this waterbody are designated as Coastal.
- (c) Neuse River - All waters within this waterbody are designated as Coastal.
- (i) Swan Creek - All waters within this waterbody are designated as Coastal.
- (ii) Lower Broad Creek - All waters within this waterbody are designated as Coastal.
- (A) Greens Creek - All waters within this waterbody are designated as Coastal.
- (B) Pittman Creek - All waters within this waterbody are designated as Coastal.
- (C) Burton Creek - All waters within this waterbody are designated as Coastal.
- (D) Brown Creek - All waters within this waterbody are designated as Coastal.
- (I) Spice Creek - All waters within this waterbody are

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| | designated
as Coastal. | 76° 45.5392' W;
running easterly to
a point on the east
shore 35° 00.4289'
N - 76° 45.4472' W. |
| (E) | Gideon Creek - All
waters within this
waterbody are
designated as
Coastal. | (ix) Gatlin Creek - Inland Waters
north and Coastal Waters
south of a line beginning at a
point on the west shore 34°
58.4165' N - 76° 47.4645'
W; running easterly to a
point on the east shore 34°
58.4154' N - 76° 47.4371'
W. |
| (F) | Tar Creek - All
waters within this
waterbody are
designated as
Coastal. | (x) Little Creek - Inland Waters
north and Coastal Waters
south of a line beginning at a
point on the west shore 34°
58.5175' N - 76° 49.5822'
W; running southeasterly to
a point on the east shore 34°
58.5086' N - 76° 49.5680'
W. |
| (G) | Parris Creek - All
waters within this
waterbody are
designated as
Coastal. | (xi) Mill Creek - Inland Waters
north and Coastal Waters
south of a line beginning at a
point on the west shore 34°
59.6024' N - 76° 51.1276'
W; running easterly to a
point on the east shore 34°
59.5955' N - 76° 51.0864'
W. |
| (iii) | Orchard Creek - All waters
within this waterbody are
designated as Coastal. | (xii) Beard Creek - Inland Waters
north and Coastal Waters
south of a line beginning at a
point on the west shore 35°
00.3293' N - 76° 52.1855'
W; running easterly to a
point on the east shore 35°
00.3055' N - 76° 51.9012'
W. |
| (iv) | Pierce Creek - All waters
within this waterbody are
designated as Coastal. | (xiii) Lower Duck Creek - Inland
Waters north and Coastal
Waters south of a line
beginning at a point on the
west shore 35° 01.5781' N -
76° 54.1580' W; running
easterly to a point on the east
shore 35° 01.5566' N - 76°
54.0248' W. |
| (v) | Whitaker Creek - All waters
within this waterbody are
designated as Coastal. | (xiv) Goose Creek - Inland Waters
north and Coastal Waters
south of a line beginning at a
point on the west shore 35°
03.4414' N - 76° 55.1170'
W; running easterly to a
point on the east shore 35°
03.3567' N - 76° 54.9728'
W. |
| (vi) | Smith Creek - Joint Waters
northwest and Coastal
Waters southeast of a line
beginning at a point on the
north shore at the Oriental
Bridge 35° 01.5149' N - 76°
41.9549' W; running
southwesterly to a point on
the south shore 35° 01.3391'
N - 76° 42.1774' W. | |
| (vii) | Greens Creek - All waters
within this waterbody are
designated as Joint. | |
| (A) | Kershaw Creek -
All waters within
this waterbody are
designated as Joint. | |
| (viii) | Dawson Creek - Inland
Waters west and Coastal
Waters east of a line
beginning at a point on the
north shore 35° 00.3371' N -
76° 45.6513' W; running
southerly to a point on the
south shore 35° 00.1492' N -
76° 45.6202' W. | |
| (A) | Tarkiln Creek -
Inland Waters north
and Coastal Waters
south of a line
beginning at a point
on the west shore
35° 00.4124' N - | |

- (xv) Upper Broad Creek - Inland Waters north and Coastal Waters south of a line beginning at a point on the west shore 35° 04.5050' N - 76° 56.5269' W; running easterly to a point on the east shore 35° 04.4705' N - 76° 56.2115' W.
- (22) Pasquotank County:
 - (a) Albemarle Sound - All waters within this waterbody in Pasquotank County are designated Coastal.
 - (i) All Manmade Tributaries - All manmade tributaries of Pasquotank County are designated as Joint.
 - (ii) Little River - Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 36° 12.2950' N - 76° 17.1405' W; running northeasterly to a point on the east shore 36° 12.5237' N - 76° 16.9418' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 07.5322' N - 76° 10.6901' W; running southwesterly to a point on the south shore 36° 06.4199' N - 76° 11.6047' W.
 - (A) Symonds Creek - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 36° 10.2898' N - 76° 14.1801' W; running southeasterly to a point on the south shore 36° 10.2042' N - 76° 14.0368' W.
 - (iii) Big Flatty Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 09.3267' N - 76° 08.2562' W; running southerly to a point on the south shore 36° 08.9730' N - 76° 08.3175' W. Joint waters north and Coastal Waters south of a line beginning at a point on the west shore 36° 07.9621' N - 76° 07.1818' W; running easterly to a point on the east shore 36° 08.2706' N - 76° 06.2525' W.
 - (iv) Pasquotank River - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 36° 18.0768' N - 76° 13.0979' W; running easterly along the south side of the Highway 158 Bridge to a point on the east shore 36° 18.0594' N - 76° 12.9620' W. Joint Waters west and Coastal Waters east of a line beginning on the north shore 36° 11.4282' N - 76° 01.2876' W; running southwesterly to a point on the south shore 36° 08.7563' N - 76° 03.6991' W.
 - (A) Little Flatty Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 11.5209' N - 76° 04.6517' W; running southerly to a point on the south shore 36° 10.9973' N - 76° 04.5149' W.
 - (B) New Begun Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 13.3298' N - 76° 08.2878' W; running southerly to a point on the south shore 36° 13.0286' N - 76° 08.1820' W.
 - (I) Paling Creek - All waters in this waterbody are designated as Inland.

- (II) James Creek - All waters in this waterbody are designated as Inland.
- (C) Charles Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 36° 17.8090' N - 76° 13.0732' W; running easterly to a point on the east shore 36° 17.8024' N - 76° 13.0407' W.
- (23) Pender County:
- (a) Cape Fear River - All waters within this waterbody for Pender County are designated as Joint.
- (i) Thorofare - For the easternmost entrance into the Black River: Inland Waters northwest and Joint Waters southeast of a line beginning at a point on the west shore 34° 22.0493' N - 78° 04.4435' W; running northeasterly to a point on the east shore 34° 22.0783' N - 78° 04.4123' W. For the westernmost entrance into the Cape Fear River: Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 21.9197' N - 78° 07.0527' W; running southeasterly to a point on the south shore 34° 21.8618' N - 78° 06.9992' W.
- (ii) Black River - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the north shore 34° 22.0783' N - 78° 04.4123' W; running southeasterly to a point on the south shore 34° 21.9950' N - 78° 04.2864' W.
- (iii) Northeast Cape Fear River - Inland Waters north and Joint Waters south of a line beginning at a point on the west side 34° 26.5658' N - 77° 50.0871' W; running northeasterly along the southern side of NC 210 bridge to a point on the east side 34° 26.6065' N - 77° 49.9955' W.
- (A) Cowpen Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 34° 22.1417' N - 77° 59.3357' W; running southerly to a point on the south shore 34° 22.1298' N - 77° 59.3426' W.
- (B) Long Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the west shore 34° 22.7149' N - 77° 58.2797' W; running northeasterly to a point on the east shore 34° 22.7428' N - 77° 58.2348' W.
- (C) Turkey Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 22.8465' N - 77° 57.4827' W; running southerly to a point on the south shore 34° 22.7895' N - 77° 57.4452' W.
- (D) Old Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 22.5249' N - 77° 52.1493' W; running northeasterly to a point on the east shore 34° 22.5327' N - 77° 52.1278' W.

- (E) Honey Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore 34° 22.8627' N - 77° 51.0887' W; running easterly to a point on the east shore 34° 22.8609' N - 77° 51.0507' W.
 - (F) Harrisons Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the north shore 34° 24.1859' N - 77° 48.6570' W; running southwesterly to a point on the south shore 34° 24.1387' N - 77° 48.6982' W.
 - (G) Island Creek - Inland Waters east and Joint Waters west of a line beginning at a point on the south shore 34° 23.2509' N - 77° 47.3377' W; running northeasterly to a point on the north shore 34° 23.3322' N - 77° 49.3208' W.
 - (b) Topsail Sound And Tributaries - All waters within this these waterbodies are designated as Coastal.
 - (c) Beasleys (Barlow) Creek - All waters within this waterbody are designated as Coastal.
 - (24) Perquimans County:
 - (a) Albemarle Sound - All waters within this waterbody in Perquimans County are designated as Coastal.
 - (i) All Manmade Tributaries - All waters within this water body are designated as Joint.
 - (ii) Yeopim River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 36° 05.4526' N - 76° 27.7651' W; running southerly to a point on the south shore at Norcum Point
- 36° 05.1029' N - 76° 27.7120' W. Joint Waters west and Coastal Waters east of a line beginning at a point on the north shore 36° 04.7426' N - 76° 24.2536' W; running southwesterly to a point on the south shore 36° 04.1136' N - 76° 24.5365' W.
- (A) Yeopim Creek - Inland Waters north and Joint Waters south of a line beginning at a point on the west shore of 36° 04.7206' N - 76° 24.8396' W; running easterly to a point on the east shore ~~36° 04.7426' N - 76° 24.2536' W~~ 36° 04.7426' N - 76° 24.2536' W.
 - (iii) Perquimans River - Joint Waters west and Coastal Waters east of a line beginning at a point on the west shore 36° 05.9669' N - 76° 18.1791' W; running northeasterly to a point on the east shore 36° 06.7655' N - 76° 16.5953' W. Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the west shore 36° 11.6569' N - 76° 28.0055' W; running southeasterly to a point on the east shore 36° 11.6123' N - 76° 27.9382' W.
 - (A) Walter's Creek - Inland Waters southwest and Joint Waters northeast of a line beginning at a point on the north shore 36° 11.1305' N - 76° 27.9185' W; running southeasterly to a point on the south shore 36° 11.0224' N - 76° 27.6626' W.
 - (B) Mill Pond Creek - Inland Waters north and Joint Waters south of a line beginning at a point

- on the west shore
36° 11.9757' N -
76° 27.5752' W;
running easterly to
a point on the east
shore 36° 11.9766'
N - 76° 27.2511' W.
- (C) Suttons Creek -
Inland Waters north
and Joint Waters
south of a line
beginning at a point
on the west shore
36° 10.0394' N -
76° 23.7945' W;
running
southeasterly to a
point on the east
shore 36° 09.9325'
N - 76° 23.5263' W.
- (D) Jackson (Cove)
Creek - Inland
Waters northeast
and Joint Waters
southwest of a line
beginning at a point
on the north shore
36° 08.4642' N -
76° 20.3324' W;
running
southeasterly to a
point on the east
shore 36° 08.4159'
N - 76° 20.2890' W.
- (E) Muddy Creek -
Inland Waters
northwest and Joint
Waters southwest
of a line beginning
at a point on the
north shore 36°
07.0381' N - 76°
17.1350' W;
running
southeasterly to a
point on the east
shore 36° 07.0218'
N - 76° 17.1226' W.
- (iv) Little River - Inland Waters
northwest and Joint Waters
southeast of a line beginning
at a point on the west shore
36° 12.2950' N - 76°
17.1405' W; running
northeasterly to a point on
the east shore 36° 12.5237'
N - 76° 16.9418' W. Joint
Waters west and Coastal
Waters east of a line
beginning at a point on the
north shore 36° 07.5322' N -
76° 10.6901' W; running
southwesterly to a point on
the south shore 36° 06.4199'
N - 76° 11.6047' W.
- (A) Deep Creek -
Inland Waters
southwest and Joint
Waters northeast of
a line beginning at
a point on the north
shore 36° 11.0945'
N - 76° 16.6717'
W; running
southeasterly to a
point on the south
shore 36° 10.7510'
N - 76° 16.2258' W.
- (B) Davis Creek -
Inland Waters west
and Joint Waters
east of a line
beginning at a point
on the north shore
36° 12.2950' N -
76° 17.1405' W;
running southerly
to a point on the
south shore 36°
12.2222' N - 76°
17.1153' W.
- (25) Tyrrell County:
- (a) Albemarle Sound - All waters within
this waterbody in Tyrrell County are
designated as Coastal.
- (i) All Manmade Tributaries -
All manmade tributaries
within this waterbody are
designated as Joint.
- (ii) Banton (Maybell) Creek -
Inland Waters south and
Coastal Waters north of a
line beginning at a point on
the west shore 35° 56.0552'
N - 76° 22.0664' W; running
northeasterly to a point on
the east shore 35° 56.1151'
N - 76° 21.8760' W.
- (iii) Scuppernong River - Coastal
Waters northwest and Joint
Waters southeast of a line
beginning at a point on the
northeast shore 35° 56.7196'
N - 76° 18.8964' W; running
southwesterly to a point on
the southwest shore at 35°
56.3351' N - 76° 19.6609'
W. Inland Waters south and

Joint Waters north of a line beginning at a point on the west shore 35° 54.0158' N - 76° 15.4605' W; running easterly to a point on the east shore 35° 54.0406' N - 76° 15.3007' W.

(A) First Creek (Rider's Creek) - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 54.0495' N - 76° 15.2842' W; running northeasterly to a point on the east shore 35° 54.0641' N - 76° 15.2554' W.

(B) Furlough Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 55.6391' N - 76° 18.9797' W; running southwesterly to a point on the south shore 35° 55.6322' N - 76° 18.9907' W.

(iv) Alligator River - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore at Cherry Ridge Landing 35° 42.2172' N - 76° 08.4686' W; running southerly to a point on the south shore 35° 42.1327' N - 76° 08.5002' W. Coastal Waters north and Joint Waters south of a line running along the north side of the Highway 64 Bridge beginning at a point on the west shore 35° 54.2903' N - 76° 01.6818' W; running easterly to a point on the east shore 35° 53.6835' N - 75° 58.8578' W.

(A) Little Alligator River - Inland Waters west and Coastal Waters east of a line beginning

at a point on the north shore 35° 56.7640' N - 76° 01.0299' W; running southerly to a point on the south shore 35° 55.9362' N - 76° 01.2492' W.

(B) Second Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 51.7616' N - 76° 03.5105' W; running southerly to a point on the south shore 35° 51.1317' N - 76° 03.8003' W.

(C) Goose Creek - Inland Waters west and Joint Waters east of a line beginning at a point on the north shore 35° 50.2658' N - 76° 03.9115' W; running southerly to a point on the south shore 35° 50.2123' N - 76° 03.9120' W.

(D) The Frying Pan - Joint Waters by connection with Alligator River.

(E) Gum Neck Landing Ditch - Inland Waters northeast and Joint Waters southwest of a line beginning at a point on the west shore 35° 41.6054' N - 76° 06.8215' W; running southeasterly to a point on the east shore 35° 41.5841' N - 76° 06.7991' W.

(26) Washington County:

(a) Albemarle Sound - All waters within this waterbody in Washington County are designated as Coastal.

(i) All Manmade Tributaries - All manmade tributaries of

- (ii) Albemarle Sound within Washington County are designated as Joint.
- (ii) Mackeys (Kendrick) Creek - Inland Waters southeast and Coastal Waters northwest of a line beginning at a point on the north shore 35° 56.3806' N - 76° 36.4356' W; running southwesterly to a point on the south shore 35° 56.3122' N - 76° 36.4613' W.
- (iii) Pleasant Grove Creek (Cherry Swamp) - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.4791' N - 76° 34.1624' W; running easterly to a point on the east shore 35° 56.5042' N - 76° 34.0319' W.
- (iv) Chapel Swamp Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.4150' N - 76° 33.3494' W; running easterly to a point on the east shore 35° 56.4122' N - 76° 33.3091' W.
- (v) Bull Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 56.9954' N - 76° 23.0291' W; running southerly to a point on the south shore 35° 56.9602' N - 76° 23.0282' W.
- (vi) Deep Creek - Inland Waters west and Coastal Waters east of a line beginning at a point on the north shore 35° 56.1291' N - 76° 23.1179' W; running southerly to a point on the south shore 35° 56.0744' N - 76° 23.1230' W.
- (vii) Banton (Maybell) Creek - Inland Waters south and Coastal Waters north of a line beginning at a point on the west shore 35° 56.0552' N - 76° 22.0664' W; running northeasterly to a point on the east shore 35° 56.1151' N - 76° 21.8760' W.
- (b) Roanoke River - Joint Waters south and Coastal Waters north of a line beginning at a point on the west shore of the Roanoke River 35° 56.5068' N - 76° 41.8858' W; running easterly to a point on the east shore 35° 56.5324' N - 76° 41.5896' W.
- (i) Conaby Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the west shore 35° 55.3779' N - 76° 42.4401' W; running easterly to a point on the east shore 35° 55.3752' N - 76° 42.3408' W.
- (ii) Welch Creek - Inland Waters south and Joint Waters north of a line beginning at a point on the western shore 35° 51.8458' N - 76° 45.8381' W; running easterly along the shoreline and across the mouths of the three creek entrances to a point on the east shore 35° 51.8840' N - 76° 45.6207' W.
- (c) Scuppernong River - All waters in this waterbody in Washington County are designated as Inland.

Authority G.S. 113-132; 113-134; 143B-289.52.

SUBCHAPTER 03R - DESCRIPTIVE BOUNDARIES

SECTION .0100 - DESCRIPTIVE BOUNDARIES

15A NCAC 03R .0107 DESIGNATED POT AREAS

(a) The pot areas referenced in 15A NCAC 03J .0301(a)(2)(A) are delineated in the following coastal fishing waters:

- (1) In Albemarle and Currituck sounds and tributaries.
- (2) In Roanoke Sound and tributaries.
- (3) In Croatan Sound and tributaries.
- (4) In Pamlico Sound and tributaries, except areas further described in Subparagraphs (a)(5), (a)(7), and (a)(8) of this Rule. Pots shall not be set within the following area described by lines:
 - (A) Striking Bay - beginning on shore at a point 35° 23.7003' N - 76° 26.6951' W; running southeasterly to shore at a point 35° 23.3580' N - 76° 26.3777' W; running easterly along shore to Long Point to a point 35° 23.3380' N - 76° 26.2540' W; running southeasterly to Drum Point to a point 35° 22.4830' N - 76° 25.1930' W;

- running southerly along shore to Point of Narrows to a point 35° 21.9240' N - 76° 25.4080' W; running northwesterly near Marker "2" to a point 35° 22.4166' N - 76° 26.4833' W; running westerly to a point 35° 22.3833' N - 76° 27.0000' W; running northerly to Short Point to a point 35° 23.3831' N - 76° 26.9922' W; running northerly along shore to a point 35° 23.5000' N - 76° 26.9666' W; running northeasterly to the beginning point.
- (5) In the Pamlico River and its tributaries west of a line beginning on Willow Point at a point 35° 22.3741' N - 76° 28.6905' W; running southerly to Pamlico Point to a point 35° 18.5882' N - 76° 28.9625' W; pots may be used within an area bound by the shoreline to the depth of six feet, except areas listed in Paragraph (b) of this Rule that may be opened to the use of pots by proclamation and except pots shall not be set within the following areas described by lines:
- (A) ~~Lupton Point beginning on Lupton Point at a point 35° 25.6012' N - 76° 31.9641' W; running northwesterly to a point 35° 25.7333' N - 76° 32.1500' W; running southerly along the six foot depth to a point 35° 25.2833' N - 76° 32.3000' W; running northeasterly to shore to a point 35° 25.3389' N - 76° 31.9592' W; running northerly along shore to the beginning point.~~
- (B) ~~Green Point beginning on shore at a point 35° 26.6478' N - 76° 33.5008' W; running westerly to a point 35° 26.5833' N - 76° 33.8333' W; running southeasterly along the six foot depth to a point 35° 26.0833' N - 76° 33.2167' W; running northerly to shore to a point 35° 26.4216' N - 76° 33.2856' W; running northwesterly along the shore to the beginning point.~~
- (C) ~~July Point beginning on shore at a point 35° 27.3667' N - 76° 33.3500' W; running northeasterly to a point 35° 27.5166' N - 76° 33.3000' W; running westerly along the six foot depth to a point 35° 27.3000' N - 76° 33.8833' W; running easterly to the beginning point.~~
- (D) ~~Manley Point beginning on shore at a point 35° 28.0171' N - 76° 33.3144' W; running northwesterly to a point 35° 28.1500' N - 76° 33.7167' W; running southeasterly along the six foot depth to a point 35° 27.6667' N - 76° 33.2000' W; running northwesterly to the beginning point.~~
- (E) ~~Durants Point beginning on shore east of Durants Point at a point 35° 30.4660' N - 76° 33.4513' W; running northwesterly to a point 35° 30.7666' N - 76° 33.6500' W; running easterly along the six foot depth to a point 35° 30.8347' N - 76° 32.6529' W; running southwesterly to shore to a point 35° 30.4400' N - 76° 32.7897' W; running westerly along shore to the beginning point.~~
- (F) ~~Lower Dowry Point beginning on shore west of Lower Dowry Creek at a point 35° 32.4334' N - 76° 35.6647' W; running southwesterly to a point 35° 32.2333' N - 76° 35.8500' W; running easterly along the six foot depth to a point 35° 32.1166' N - 76° 35.1166' W; running northerly to shore to a point 35° 32.4740' N - 76° 35.1017' W; running westerly along shore to the Inland/Coastal line on the east shore of Lower Dowry Creek; running westerly along the Inland/Coastal line to the west shore of Lower Dowry Creek; running westerly along shore to the beginning point.~~
- (G) ~~Schrams Beach beginning on shore at a point 35° 27.2222' N - 76° 36.4662' W; running northeasterly to a point 35° 27.2988' N - 76° 36.2600' W; running southerly along the six foot depth to a point 35° 26.9000' N - 76° 36.1500' W; running northwesterly to shore to a point 35° 27.0418' N - 76° 36.3767' W; running northerly along shore to the beginning point.~~
- (H) ~~Grassy Point beginning on shore at a point 35° 25.8333' N - 76° 35.6167' W; running northeasterly to a point 35° 25.9846' N - 76° 35.4654' W; running southerly along the six foot depth to a point 35° 25.7333' N - 76° 34.7667' W; running westerly to shore to a point 35° 25.6787' N - 76° 35.4654' W; running northwesterly along shore to the beginning point.~~
- (H)(A) Long Point - beginning on shore at a point 35° 22.4833' N - 76° 43.4167' W; running northwesterly to a point 35° 22.6500' N - 76° 43.4333' W; running easterly along the six foot depth to a point 35° 22.7333' N - 76° 42.7333' W; running to shore to a point 35° 22.4000' N - 76° 43.0833' W;

- W; running westerly along shore to the beginning point.
- ~~(H)~~(B) Pamlico River Mainstream Channel - beginning at a point 250 yards north of Marker "7" at a point 35° 27.2953' N - 76° 55.1351' W; running westerly to a point near Marker "8" at a point 35° 27.4217' N - 76° 56.0917' W; running westerly along the north side of the marked channel to a point 100 yards north of Marker "9" at a point 35° 27.7472' N - 76° 57.5392' W; running westerly along the north side of the marked channel to a point near Marker "16", north of ~~Whichard's~~ Whichard Beach at a point 35° 30.4750' N - 77° 01.2217' W; running southwesterly across the channel to a point 35° 30.4373' N - 77° 01.2614' W; running southeasterly along the south side of the marked channel at a distance of 100 yards from the north side of the marked channel to a point near Marker "7" at a point 35° 27.1722' N - 76° 55.1380' W; running northerly to the beginning point.
- ~~(K)~~(C) Chocowinity Bay Channel - beginning at a point near the Wildlife Resources Commission (WRC) red marker in Chocowinity Bay at a point 35° 29.5501' N - 77° 01.4335' W; running easterly to the south side of the marked navigation channel in Pamlico River, at a point 35° 29.0408' N - 76° 59.5437' W; running southeasterly to a point 35° 28.9236' N - 76° 59.3109' W; running westerly to the WRC green buoy in Chocowinity Bay at a point 35° 29.5004' N - 77° 01.4339' W; running northerly to the beginning point.
- ~~(L)~~(D) ~~Whichard's~~ Whichard Beach Channel - beginning on shore at a point 35° 30.2364' N - 77° 01.3679' W; running easterly to the south side of the marked navigation channel in Pamlico River at a point 35° 30.1952' N - 77° 01.0252' W; running southeasterly to a point 35° 30.1373' N - 77° 00.9685' W; running westerly to shore at a point 35° 30.2002' N - 77° 01.4518' W, running northeasterly to the beginning point.
- ~~(M)~~(E) Broad Creek Channel - beginning near Marker "3" in Broad Creek at a point 35° 29.0733' N - 76° 57.2417' W; running southwesterly near Marker "1" at a point 35° 28.8591' N - 76° 57.3823' W; running southerly to the marked navigation channel in Pamlico River at a point 35° 27.8083' N - 76° 57.6250' W; running southeasterly to a point 35° 27.7344' N - 76° 57.4822' W; running northerly to the six foot depth at a point 35° 28.5779' N - 76° 57.2924' W; running northerly to the six foot depth at a point 35° 28.7781' N - 76° 57.3508' W; running northerly along the six foot depth to a point near Marker "4" at a point 35° 29.0933' N - 76° 57.1967' W; running southwesterly to the beginning point.
- ~~(N)~~(F) Blounts Bay - from June 1 through September 15, on the south side of Pamlico River beginning near Marker "7" at a point 35° 27.1722' N - 76° 55.1381' W; running westerly and along the south side of the marked navigation channel to a point near Marker "9" at a point 35° 27.7070' N - 76° 57.5739' W; running northwesterly along the south side of the marked channel to the intersection of the Chocowinity Bay Channel at a point 35° 28.9236' N - 76° 59.3109' W; running westerly along the south side of the Chocowinity Bay Channel to a point 35° 29.0206' N - 76° 59.6678' W; running southerly to the eight foot depth at a point 35° 28.6667' N - 76° 59.6667' W; running southeasterly along the eight foot depth to a point 35° 27.0833' N - 76° 55.1667' W; running northerly to the beginning point.
- (6) In the Pamlico River and its tributaries west of a line beginning on Willow Point at a point 35° 22.3741' N - 76° 28.6905' W; running southerly to Pamlico Point to a point 35° 18.5882' N - 76° 28.9625' W; pots may be used within an area bound by the shoreline to the depth of six feet, except areas listed in Paragraph (b) of this Rule that may be opened to the use of pots by proclamation and ~~except~~; except pots may be set within the following areas described by lines:
- ~~(A) — Durants Point beginning on Durants Point at a point 35° 30.5197' N - 76° 35.1521' W; running northwesterly to a point 35° 31.1333' N - 76° 35.5833' W; running northeasterly 200 yards south of Marker "10" to a point 35° 31.2032' N - 76° 35.5558' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to a point southwest of Marker "12" to a point 35° 31.1492'~~

- N — 76° 33.8997' W; running southeasterly to shore to a point 35° 30.4660' N - 76° 33.4513' W; running westerly along shore to the beginning point.
- (B) — ~~South shore, upper Pungo River — beginning on shore west of Durants Point at a point 35° 30.4400' N - 76° 32.7897' W; running northeasterly to a point southeast of Marker "14" to a point 35° 31.0833' N - 76° 32.5667' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to the shore south of Wilkerson Creek to a point 35° 33.0493' N - 76° 27.2752' W; running southerly and westerly along the shoreline and following the Inland/Coastal lines of Horse Island, Tarklin, Scranton, and Smith Creeks to the beginning point.~~
- (C) — ~~North shore, upper Pungo River — beginning on shore east of Lower Dowry Creek at a point 35° 32.4740' N — 76° 35.1017' W; running southerly to a point 35° 31.5167' N - 76° 35.1000' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to the north shore of Wilkerson Creek to a point 35° 33.2339' N - 76° 27.5449' W; running northwesterly along the shoreline to the east end of the US 264 bridge; running westerly along the bridge and following the Inland/Coastal line to the western shore; running southerly and westerly along the shoreline and following the Inland/Coastal lines of Crooked Creek and Upper Dowry Creek to the beginning point.~~
- (D) — ~~Tooleys Point — beginning at the "Breakwater" 200 yards northeast of Beacon "6", at a point 35° 31.7833' N — 76° 36.8500' W; running southeasterly to a point 200 yards from Marker "4" at a point 35° 31.5167' N - 76° 36.3500' W; running easterly to a point 35° 31.4667' N - 76° 35.9833' W; running northerly near Beacon "1" to a point 35° 32.1100' N - 76° 35.9817' W; running northeasterly to shore to a point 35° 32.4334' N - 76° 35.6647' W; running westerly and along the shoreline of Battalina and Tooley Creeks; running along the river shore to the "Breakwater" to a point 35° 31.9908' N — 76° 36.6105' W; running~~
- ~~southwesterly along the "Breakwater" to the beginning point.~~
- (A) Durants Point and South Shore, upper Pungo River - beginning on Durants Point at a point 35° 30.5197' N - 76° 35.1521' W; running northwesterly to a point 35° 31.1333' N - 76° 35.5833' W; running northeasterly 200 yards south of Marker "10" to a point 35° 31.2032' N - 76° 35.5558' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to the shore south of Wilkerson Creek to a point 35° 33.0493' N - 76° 27.2752' W; running southerly and westerly along the shoreline and following the Inland/Coastal lines of Horse Island, Tarklin, Scranton, and Smith Creeks to the beginning point.
- (B) Tooleys Point and North Shore, upper Pungo River - beginning at the "Breakwater" 200 yards northeast of Beacon "6", at a point 35° 31.7833' N - 76° 36.8500' W; running southeasterly to a point 200 yards from Marker "4" at a point 35° 31.5167' N - 76° 36.3500' W; running easterly parallel to the marked navigation channel at a distance of 200 yards to the north shore of Wilkerson Creek to a point 35° 33.2339' N - 76° 27.5449' W; running northwesterly along the shoreline to the east end of the US 264 bridge; running westerly along the south side of the bridge and following the Inland/Coastal line to the western shore; running southerly and westerly along the shoreline and following the Inland/Coastal lines of Upper Dowry Creek and Lower Dowry Creek; running westerly and along the shoreline of Battalina and Tooleys creeks; running along the river shore to the "Breakwater" to a point 35° 31.9908' N - 76° 36.6105' W; running southwesterly along the "Breakwater" to the beginning point.
- (E)(C) Pungo Creek - beginning on Windmill Point at a point 35° 30.7444' N - 76° 38.2869' W; running northeasterly to a point 200 yards west of Marker "3" to a point 35° 31.3500' N - 76° 36.6167' W; running northwesterly to the "Breakwater" to a point 35° 31.6296' N - 76° 37.1201' W; running westerly along the "Breakwater" to shore to a point 35°

- 31.5653' N - 76° 37.3832' W; running westerly along shore and into Pungo Creek following the shoreline and the Inland/Coastal lines of Vale, Scott, and Smith creeks to the north end of the NC 92 bridge over Pungo Creek; running southerly along the bridge and following the Inland/Coastal line to the southern shore; running easterly along shore to the beginning point.
- ~~(F)~~(D) Upper Pamlico - in coastal fishing waters west of a line beginning on the north shore of Gum Point at a point 35° 25.1699' N - 76° 45.5251' W; running southwesterly to a point on the south shore of Pamlico River to a point 35° 23.4453' N - 76° 46.4346' W, except as described in Part (a)(5)(J) through (N) of this Rule.
- ~~(G)~~(E) North Side Pamlico - beginning on the north shore of Gum Point at a point 35° 25.1699' N - 76° 45.5251' W; running southwesterly 500 yards from shore to a point 35° 24.9339' N - 76° 45.6495' W; running easterly parallel to the shoreline at a distance of 500 yards near Adams Point to a point 35° 23.3949' N - 76° 35.8089' W; running northerly to shore at a point 35° 23.1754' N - 76° 35.9619' W; running westerly along shore to the beginning point.
- ~~(H)~~(F) South Creek - in coastal fishing waters of South Creek and tributaries west of a line beginning on Hickory Point at a point 35° 21.7385' N - 76° 41.5907' W; running southerly to Fork Point to a point 35° 20.7534' N - 76° 41.7870' W.
- (7) In Bay River west of a line beginning on Bay Point at a point 35° 11.0750' N - 76° 31.6080' W; running southerly to Maw Point to a point 35° 09.0407' N - 76° 32.2348' W; pots may be used within an area bound by the shoreline to the depth of six feet, except areas listed in Paragraph (b) of this Rule that may be opened to the use of pots by proclamation, and pots shall not be set within the following areas described by lines:
- (A) Vandemere - beginning on the west shore of Vandemere Creek at a point 35° 11.2280' N - 76° 39.6046' W; running southeasterly to the east shore to a point 35° 11.0920' N - 76° 39.3240' W; running southerly to a point 35° 10.9390' N - 76° 39.4426' W; running southwesterly to a point 35° 10.8567' N - 76° 39.6212' W; running northwesterly to shore west of Vandemere Creek to a point 35° 10.8983' N - 76° 39.7307' W; running northerly along shore to the beginning point.
- (B) Moore Bay - beginning on shore west of Bell Point at a point 35° 09.6712' N - 76° 39.9651' W; running northwesterly to a point 35° 09.7331' N - 76° 40.0928' W; running southerly along the six foot depth to a point 35° 09.0045' N - 76° 40.3141' W; running southeasterly to the north shore of Moore Creek to a point 35° 08.9640' N - 76° 40.2000' W; running northerly along shore to the beginning point.
- (8) In the Neuse River and Point of Marsh area south and west of a line beginning on Maw Point at a point 35° 09.0407' N - 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point 35° 08.1250' N - 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N - 76° 28.5383' W; running southeasterly to a point 35° 04.7670' N - 76° 25.7920' W; running southwesterly to shore to a point 35° 03.9387' N - 76° 27.0466' W; pots may be used in coastal fishing waters bound by the shoreline to the depth of six feet, except areas listed in Paragraph (b) of this Rule that may be opened to the use of pots by proclamation and except pots shall not be set within the following areas described by lines:
- (A) Oriental - in that area including Greens Creek and tributaries downstream of the bridge on State Secondary Road 1308, and Whittaker Creek north of a line beginning on the west shore at the Whittaker Creek primary nursery area (PNA) line; running easterly along the Whittaker Creek PNA line to the east shore; running southerly to a point 35° 01.3833' N - 76° 40.9500' W; running westerly following the six foot depth to a point 35° 01.1666' N - 76° 41.8833' W; running southerly across the channel to a point 35° 01.1339' N - 76° 41.9589' W; running westerly to Windmill Point to the south shore of the Shop Gut Creek PNA line; running northerly along the Shop Gut Creek PNA line to the north shore of the Shop Gut Creek PNA line.
- (B) Greens Creek - more than 75 yards from shore in the area beginning on the south shore of Greens Creek primary nursery area (PNA) line;

- following the PNA lines of Greens Creek and Kershaw Creek to the east shore of Kershaw Creek; running easterly along the shore of Greens Creek, and running along the shore of Smith Creek and its tributaries to the bridge on State Secondary Road 1308; running southwesterly along the bridge to the south shore of Greens Creek; running westerly along the shore to the beginning point.
- (C) Dawson Creek - beginning on the west shore at a point 34° 59.5920' N - 76° 45.4620' W; running easterly along the bridge on State Secondary Road 1302 to shore at a point 34° 59.5800' N - 76° 45.4140' W; running northerly and easterly along the shore to the primary nursery area (PNA) line of the southeastern tributary; running northerly along the PNA line to shore; running northerly along shore to the PNA line of the unnamed northeastern tributary; running northwesterly along the PNA line to shore; running northwesterly along shore to the Inland/Coastal line on Tarklin Creek; running westerly along the Inland/Coastal line to shore; running southwesterly along shore to the Inland/Coastal line on Dawson Creek; running southerly along the Inland/Coastal line to the shore; running easterly and then southerly along shore to the beginning point.
- (D) Wilkerson Point - beginning on the west side of the Minnesott Beach Yacht Basin Channel at a point 34° 58.2682' N - 76° 49.1903' W; running southerly to a point 34° 58.1403' N - 76° 49.2253' W; running easterly along the six foot depth to a point 34° 58.4000' N - 76° 46.5667' W; running northerly to shore to a point 34° 58.5333' N - 76° 46.6333' W; running westerly along shore to the beginning point.
- (E) Beard Creek - beginning on shore west of Beard Creek at a point 35° 00.1902' N - 76° 52.2176' W; running southerly to a point 34° 59.8883' N - 76° 52.3594' W; running easterly along the six foot depth to a point 34° 59.4167' N - 76° 51.2333' W; running northeasterly to shore to a point 34° 59.5989' N - 76° 51.0781' W; running westerly along shore to the Beard Creek tributary primary nursery area (PNA) line; running northeasterly along the PNA line to the Inland/Coastal line in Beards Creek; running westerly along the Inland/Coastal line to the western shore; running southerly along shore to the beginning point.
- (F) Clubfoot Creek - more than 50 yards from shore in the area south of a line beginning at a point 34° 54.9327' N - 76° 45.6506' W on the west shore; running northerly to a point 34° 55.1501' N - 76° 45.6221' W; running northeasterly to a point 34° 55.1812' N - 76° 45.5172' W near Marker "5"; running northeasterly to a point 34° 55.2994' N - 76° 45.1180' W on the east shore and north of line beginning at a point on the west shore 34° 54.5424' N - 76° 45.7252' W; running easterly to a point 34° 54.4853' N - 76° 45.4022' W on the east shore.
- (G) Lower Broad Creek - beginning on the north shore at a point 35° 05.8314' N - 76° 35.3845' W; running southwesterly along the secondary nursery area line to the six foot depth at 35° 05.7321' N - 76° 35.5046' W; running southerly following the six foot depth near Marker "2A" to a point 35° 05.5442' N - 76° 35.2886' W; running northerly to a point 35° 05.7446' N - 76° 35.2980' W; running westerly along the shore to the point of beginning.
- (9) In the Neuse River and Point of Marsh area south and west of a line beginning on Maw Point at a point 35° 09.0407' N - 76° 32.2348' W; running southeasterly near the Maw Point Shoal Marker "2" to a point 35° 08.1250' N - 76° 30.8532' W; running southeasterly near the Neuse River Entrance Marker "NR" to a point 35° 06.6212' N - 76° 28.5383' W; running southeasterly to a point 35° 04.7670' N - 76° 25.7920' W; running southwesterly to shore to a point 35° 03.9387' N - 76° 27.0466' W; pots may be used in coastal fishing waters bound by the shoreline to the depth of six feet, except areas listed in Paragraph (b) of this Rule that may be opened to the use of pots by proclamation and except pots may be set in coastal fishing waters west of a line beginning on shore west of Beards Creek at a point 35° 00.1902' N - 76° 52.2176' W; running southwesterly to shore west of Slocum Creek to a point 34° 57.0333' N - 76° 53.7252' W.
- (10) In the West Bay and Long Bay area south and west of a line beginning on shore at a point 35° 03.9387' N - 76° 27.0466' W; running

northeasterly to a point 35° 04.7670' N - 76° 25.7920' W; running southeasterly to the eastern shore of West Bay to a point 35° 02.1203' N - 76° 21.8122' W; areas described by lines:

- (A) Raccoon Island, northern shore - beginning at the western point at a point 35° 04.3696' N - 76° 26.1815' W; running southeasterly along the north shore to a point 35° 03.9814' N - 76° 25.5862' W; running easterly 150 yards to a point 35° 03.9777' N - 76° 25.4910' W; running northwesterly at a distance of 150 yards from shore to a point 35° 04.4417' N - 76° 26.2150' W; running easterly to the beginning point.
- (B) Raccoon Island, southern shore - beginning at the western point at a point 35° 04.3696' N - 76° 26.1815' W; running southeasterly along the south shore to a point 35° 03.9814' N - 76° 25.5862' W; running easterly 50 yards to a point 35° 03.9800' N - 76° 25.5513' W; running westerly at a distance of 50 yards from shore to a point 35° 04.3955' N - 76° 26.1934' W; running easterly to the beginning point.
- (C) West Bay: Point of the Narrows - beginning on shore at a point 35° 03.5421' N - 76° 26.3909' W; running northeasterly to a point 35° 03.5980' N - 76° 26.3894' W; running southeasterly parallel to shore at a distance of 100 yards to a point 35° 02.4740' N - 76° 26.1280' W; running northwesterly to shore to a point 35° 02.5440' N - 76° 26.1486' W; running northerly along shore to the beginning point.
- (D) West Bay: Point of Island Bay, Dowdy Bay - beginning on shore at a point 35° 01.5271' N - 76° 26.2836' W; running southeasterly to a point 35° 01.4684' N - 76° 26.2450' W; running southeasterly parallel to shore at a distance of 100 yards to a point 35° 00.0701' N - 76° 25.4414' W; running southerly to a point 35° 00.0620' N - 76° 25.5074' W on Dowdy Point; running westerly and northerly along shore to the beginning point.
- (E) West Bay - beginning on Dowdy Point at a point 35° 00.0620' N - 76° 25.5074' W; running easterly to a point 35° 00.1000' N - 76° 25.2000'

W; running southerly to a point 34° 58.7500' N - 76° 24.7000' W; running westerly to Jack's Bay Point to a point 34° 58.6886' N - 76° 25.3683' W; running northerly along shore to the beginning point.

- (F) Long Bay: Jack's Bay, Stump Bay - beginning on Jack's Bay Point at a point 34° 58.6886' N - 76° 25.3683' W; running southwesterly to a point 34° 57.6500' N - 76° 25.8500' W; running westerly to shore to a point 34° 57.2089' N - 76° 27.2292' W; running northerly along shore to the boundary of the military restricted area (having its center at a point 34° 58.8000' N - 76° 26.2000' W) in Jack's Bay to a point 34° 58.4208' N - 76° 25.9417' W; running northeasterly along the boundary of the military restricted area to a point 34° 58.7746' N - 76° 25.6733' W; running easterly along shore to the beginning point.
- (G) Long Bay - beginning on the east point of the southern shore of Stump Bay at a point 34° 57.2089' N - 76° 27.2292' W; running southeasterly to Swimming Point to a point 34° 56.7619' N - 76° 26.3838' W; running southerly along shore to the head of Long Bay; running northerly along the west shore to the beginning point.
- (H) Long Bay: Owens Bay - beginning on Swimming Point at a point 34° 56.7619' N - 76° 26.3838' W; running northwesterly to a point 34° 56.8470' N - 76° 26.5363' W; running northeasterly parallel to shore at a distance of 300 yards to a point 34° 57.9394' N - 76° 24.1326' W; running southwesterly to Long Bay Point at a point 34° 57.7863' N - 76° 24.1837' W; running southwesterly along shore to the beginning point.
- (I) West Thorofare Bay, Merkle Bay - beginning on Long Bay Point at a point 34° 57.7863' N - 76° 24.1837' W; running northeasterly near Marker "8WB" to a point 34° 58.4600' N - 76° 23.9600' W; running easterly to Tump Point to a point 34° 58.7000' N - 76° 22.8166' W; running southerly along the shore of Merkle Bay and West Thorofare Bay back to the beginning point.
- (J) West Bay, North Bay - beginning on the eastern shore of West Bay at a point 35° 02.1203' N - 76° 21.8122'

- W; running northwesterly to a point 35° 02.5412' N - 76° 22.4445' W; running southwesterly near Marker "5WB" to a point 35° 02.0798' N - 76° 22.8729' W; running southerly to a point 35° 00.5666' N - 76° 21.8333' W; running southerly to Deep Bend Point to a point 34° 58.5923' N - 76° 21.7325' W; running easterly and northerly along shore to the beginning point.
- (11) Core Sound, Back Sound and the Straits and their tributaries.
- (12) North River:
- (A) Goose Bay - beginning on shore west of South Leopard Creek at a point 34° 45.4517' N - 76° 35.1767' W; running northerly to a point 34° 45.6409' N - 76° 35.2503' W; running southwesterly to a point 34° 45.3333' N - 76° 35.7500' W; running southerly to a point 34° 43.4667' N - 76° 35.2333' W; running easterly to shore at a point 34° 43.5833' N - 76° 34.9167' W; running northerly along shore to the beginning point.
- (B) Ward Creek - coastal fishing waters north and east of a line beginning on the north shore at a point 34° 46.2667' N - 76° 35.4933' W; running southerly to south shore to a point 34° 45.4517' N - 76° 35.1767' W.
- (C) Upper North River - coastal fishing waters north of a line beginning on the west shore at a point 34° 46.0383' N - 76° 37.0633' W; running easterly to shore to a point 34° 46.2667' N - 76° 35.4933' W.
- (D) Newby Creek, Gibbs Creek - beginning on Marsh Hen Point at a point 34° 45.2004' N - 76° 37.0639' W; running southwesterly to a point 34° 44.5833' N - 76° 36.6000' W; running southeasterly to shore near Holland's Rocks to a point 34° 43.6667' N - 76° 37.3333' W; running northerly along shore to the beginning point.
- (E) North River Marshes - beginning near Marker "6" at a point 34° 43.4833' N - 76° 37.3500' W; running northeasterly to a point 34° 44.1333' N - 76° 36.8667' W; running southeasterly to a point 34° 43.8000' N - 76° 36.1333' W; running southeasterly to a point 34° 43.5000' N - 76° 35.7833' W; running southerly near Marker "56" to a point 34° 42.2391' N - 76° 35.8498' W; running westerly to a point 34° 42.2333' N - 76° 36.7167' W; running northerly to a point 34° 42.7500' N - 76° 36.9667' W; running northerly to a point 34° 43.2333' N - 76° 36.9667' W; running northwesterly to the beginning point.
- (13) Newport River:
- (A) Lower portion - beginning on shore east of Penn Point at a point 34° 45.4397' N - 76° 43.0638' W; running northeasterly to shore east of Oyster Creek to a point 34° 46.5480' N - 76° 41.9910' W; running easterly along shore to a point on the western shore of Core Creek to a point 34° 47.0816' N - 76° 41.2605' W; running easterly to the eastern shore at a point 34° 46.9867' N - 76° 41.0437' W; running southerly along shore to Gallant Point to a point 34° 43.9911' N - 76° 40.2762' W; running westerly near Marker "2" to a point 34° 44.0031' N - 76° 40.5038' W; running southeasterly near Marker "4" to a point 34° 43.7064' N - 76° 40.1627' W; running southerly to the west side of Gallant's Channel at the drawbridge to a point 34° 43.3500' N - 76° 40.1833' W; running westerly along the US 70 and the US 70 bridge to its terminus at the State Port Terminal; running westerly and northerly along the western shore of Newport River and its tributaries to the beginning point.
- (B) Upper portion - the coastal fishing waters west of a line beginning on shore east of Harlowe Creek at a point 34° 46.5730' N - 76° 42.6350' W; running southerly to shore east of Penn Point to a point 34° 45.6970' N - 76° 43.5180' W.
- (14) Bogue Sound:
- (A) South of the IWW - beginning on the south shore at the NC 58 bridge at a point 34° 40.0585' N - 77° 03.8005' W; running northerly along the bridge to the south side of the IWW channel to a point 34° 40.4464' N - 77° 03.9155' W; running easterly along the south side of the IWW channel to the Atlantic Beach bridge to a point 34° 43.0320' N - 76° 44.1300' W; running easterly to the northeastern shore of Tar Landing Bay to a point 34° 42.5000' N - 76° 42.2000' W; running easterly along shore to a point 34° 42.1990' N - 76° 41.3873' W.

- W; running southeasterly to a point 34° 42.1631' N - 76° 41.3491' W; running southeasterly and westerly along shore to the beginning point.
- (B) North of the IWW - beginning on the north shore at the NC 58 bridge at a point 34° 40.7780' N - 77° 04.0010' W; running southerly along the bridge to the north side of the IWW channel to a point 34° 40.4640' N - 77° 03.9090' W; running easterly along the north side of the IWW channel to the Atlantic Beach bridge to a point 34° 43.0620' N - 76° 44.1240' W; running northerly along the bridge to shore to a point 34° 43.2780' N - 76° 44.0700' W; running westerly along shore to the beginning point.
- (15) Designated primary nursery areas in all coastal fishing waters which are listed in 15A NCAC 03R .0103, except Burton Creek off Lower Broad Creek in Pamlico County.
- (b) The pot areas referenced in 15A NCAC 03J .0301(a)(2)(B) to be opened by proclamation are delineated in the following coastal fishing waters:
- (1) Wysocking Bay:
- (A) Lone Tree Creek - beginning on shore at a point 35° 25.9705' N - 76° 02.7799' W; running easterly along the shoreline to the primary nursery area (PNA) line on the north shore of Lone Tree Creek; running southeasterly along the PNA line to the south shore; running southwestly to a point 35° 24.7666' N - 76° 02.5333' W; running northwestly to a point 35° 25.7000' N - 76° 03.2666' W; running northeasterly to the beginning point.
- (B) Mt. Pleasant Bay - beginning on shore west of Green Point at a point 35° 24.6160' N - 76° 03.9690' W; running easterly to a point 35° 24.4500' N - 76° 03.2000' W; running southerly to a point 35° 23.2833' N - 76° 03.5333' W; running southwestly to shore to a point 35° 23.1166' N - 76° 04.2000' W; running westerly and northerly along shore to the primary nursery area (PNA) line on the western shore of Hickory Creek Bay; running northeasterly along the PNA line to Browns Island; running along the eastern shore of Browns Island to the PNA line on the south shore of Old Hill Bay; running northerly along the PNA line to shore; running northeasterly along shore to the beginning point.
- (2) Juniper Bay - beginning on shore at a point 35° 21.7957' N - 76° 14.3545' W; running southeasterly along shore to the primary nursery area (PNA) line on the western shore of Buck Creek; running southeasterly along the PNA line to the eastern shore; running southeasterly along shore to the PNA line on the north shore of Laurel Creek; running southerly to the south shore; running southerly along shore to Juniper Bay Point to a point 35° 20.4420' N - 76° 13.2680' W; running westerly to a point 35° 20.2500' N - 76° 14.7500' W; running northerly near Marker "3" to a point 35° 21.5360' N - 76° 14.8040' W; running northeasterly to the beginning point.
- (3) Swanquarter Bay - beginning in Caffee Bay on the north shore at a point 35° 21.9928' N - 76° 17.6720' W; running southerly to the south shore at a point 35° 21.5240' N - 76° 17.8130' W; running westerly along shore to Drum Point to a point 35° 21.5920' N - 76° 18.3560' W; running westerly to a point 35° 21.2833' N - 76° 19.0500' W; running northwestly to a point 35° 21.8500' N - 76° 19.4500' W; running easterly to Sandy Point to a point 35° 22.1080' N - 76° 18.7440' W; running easterly along shore and following the PNA line of the northern tributary in Caffee Bay to the beginning point.
- (4) Deep Cove - beginning on the north shore at a point 35° 21.5784' N - 76° 22.7505' W; running easterly along shore to a point 35° 21.5002' N - 76° 22.1112' W; running southerly to shore to a point 35° 20.6851' N - 76° 22.0524' W; running westerly along shore to a point 35° 20.5390' N - 76° 22.7790' W; running northerly to the beginning point.
- (5) Rose Bay - beginning on shore south of Swan Point at a point 35° 23.9650' N - 76° 23.5530' W; running southeasterly along shore to a point 35° 23.5060' N - 76° 23.2090' W; running westerly to a point 35° 23.3166' N - 76° 24.0666' W; running northwestly to a point 35° 24.0500' N - 76° 24.5500' W; running easterly to the beginning point.
- (6) Spencer Bay - beginning on Roos Point at a point 35° 22.3590' N - 76° 28.1850' W; running northeasterly to a point 35° 22.9500' N - 76° 27.2166' W; running northwestly to a point 35° 23.4166' N - 76° 27.9500' W; running southwestly to shore to a point 35° 23.0209' N - 76° 28.5060' W; running southeasterly along shore and the primary nursery area line of the unnamed western tributary of Spencer Bay to the beginning point.
- (7) Pamlico River:

- (A) Lee Creek - beginning on shore at a point 35° 22.8779' N - 76° 45.7149' W; running northerly to a point 35° 23.1011' N - 76° 45.7371' W; running easterly along the six foot depth to a point 35° 22.9450' N - 76° 44.8403' W; running southwesterly to shore to a point 35° 22.7667' N - 76° 45.2333' W; running westerly along shore to the beginning point.
 - (B) Huddy Gut - beginning on shore at a point 35° 22.5000' N - 76° 44.4500' W; running northerly to a point 35° 22.7166' N - 76° 44.5000' W; running easterly along the six foot depth to a point 35° 22.7170' N - 76° 43.9500' W; running southwesterly to shore to a point 35° 22.4657' N - 76° 44.0536' W; running westerly along shore to the beginning point.
 - (C) Indian Island - beginning on shore at the west end of Indian Island at a point 35° 21.6240' N - 76° 39.4090' W; running westerly to a point 35° 21.7667' N - 76° 40.2667' W; running easterly along the six foot depth to a point 35° 21.6107' N - 76° 38.2202' W; running westerly to the east end of Indian Island to a point 35° 21.6100' N - 76° 38.6290' W; running westerly along the northern shore to the beginning point.
 - (D) Old Field Point, Goose Creek - beginning on shore at a point 35° 20.2297' N - 76° 37.3456' W; running southeasterly to a point 35° 20.1500' N - 76° 37.1000' W; running southerly along the six foot depth to a point 35° 19.9031' N - 76° 37.2308' W; running westerly to shore to a point 35° 19.9812' N - 76° 37.4917' W; running northerly along shore to the beginning point.
- (8) Big Porpoise Bay - beginning on the north shore at a point 35° 16.0028' N - 76° 29.1708' W; running southerly to Sage Point at a point 35° 15.5930' N - 76° 29.1270' W; running easterly to a point 35° 15.4660' N - 76° 28.6000' W; running northerly to shore to a point 35° 15.8120' N - 76° 28.4270' W; running westerly along shore to the beginning point.
- (9) Middle Bay - beginning on Middle Bay Point at a point 35° 14.8310' N - 76° 28.7500' W; running southerly to Sow Island Point at a point 35° 13.2876' N - 76° 29.5585' W; running westerly along shore to Big Fishing Point at a point 35° 14.0285' N - 76° 29.9336' W; running northerly to Oyster Creek Point at a point 35° 14.6042' N - 76° 29.8544' W; running easterly along shore to the beginning point.
- (10) Jones Bay - beginning on Sow Island Point at a point 35° 13.1811' N - 76° 29.6096' W; running southerly near Marker "3" to a point 35° 12.0250' N - 76° 29.9660' W; running northwesterly to a point 35° 12.8000' N - 76° 30.9666' W; running southwesterly to shore at the east shore of the Little Drum Creek primary nursery area (PNA) line; running westerly along the PNA line to the west shore of the Little Eve Creek PNA; running westerly along shore to a point 35° 12.6000' N - 76° 32.0166' W; running northeasterly to a point 35° 12.8666' N - 76° 31.7500' W; running northwesterly to a point 35° 13.1833' N - 76° 32.1166' W; running northerly to a point 35° 13.6500' N - 76° 31.9000' W; running southeasterly to a point 35° 13.1500' N - 76° 30.8000' W; running northerly to shore at a point 35° 13.4886' N - 76° 30.7785' W; running easterly along shore to the beginning point.
- (11) Bay Point - beginning on Boar Point at a point 35° 12.1450' N - 76° 31.1150' W; running easterly near Marker "5" to a point 35° 12.0250' N - 76° 29.9660' W; running southerly to a point 35° 10.9333' N - 76° 30.1666' W; running westerly to Bay Point to a point 35° 11.0750' N - 76° 31.6080' W; running northerly along shore to the beginning point.
- (12) Bay River:
- (A) Rockhole Bay - beginning on the western shore of Dump Creek at a point 35° 11.6708' N - 76° 33.4359' W; running southerly to a point 35° 11.3833' N - 76° 33.3166' W; running southeasterly along the six foot depth to a point 35° 10.8333' N - 76° 32.1333' W; running northerly to shore at a point 35° 11.1250' N - 76° 32.1340' W; running northwesterly along shore to the southeast shore of the Rockhole Bay PNA line; running northwesterly along the PNA line to the western shore; running westerly along shore to the east shore of PNA line in Dump Creek; running southwesterly along the PNA line to the western shore; running southerly along shore to the beginning point.
 - (B) Hogpen Creek - beginning on shore north of Bonner Bay at a point 35° 10.4174' N - 76° 34.7041' W; running northerly to a point 35° 10.7500' N - 76° 34.7333' W; running easterly along the six foot depth to a point

- southwest of Marker "3" to a point 35° 10.8137' N - 76° 33.5120' W; running southwesterly to shore to a point 35° 10.3195' N - 76° 34.0876' W; running westerly along shore to the beginning point.
- (C) Fisherman Bay - beginning on the western shore of Fisherman Bay at a point 35° 09.2345' N - 76° 33.0199' W; running northwesterly to a point 35° 09.9892' N - 76° 33.2213' W; running easterly along the six foot depth to a point southwest and near Marker "1" to a point 35° 09.7951' N - 76° 32.0099' W; running southwesterly to shore to a point 35° 09.2668' N - 76° 32.3668' W; running westerly along shore to the beginning point.
- (13) Neuse River:
- (A) Swan Creek - beginning at a point on shore south of Maw Bay at a point 35° 08.5760' N - 76° 32.6320' W; running southerly along shore to a point north of Swan Creek to a point 35° 07.3182' N - 76° 33.4620' W; running southeasterly to the six foot depth to a point 35° 07.2524' N - 76° 33.2078' W; running northeasterly along the six foot depth to a point 35° 08.3214' N - 76° 31.9971' W; running westerly to the beginning point.
- (B) Broad Creek - beginning on Tonney Hill Point at a point 35° 05.5505' N - 76° 35.7249' W; running southeasterly along shore and following the primary nursery area line of Cedar Creek; running southerly along shore to a point north of Gum Thicket Creek to a point 35° 04.6741' N - 76° 35.7051' W; running southeasterly to a point 35° 04.5786' N - 76° 35.4808' W; running northerly near Marker "1" to a point 35° 05.4809' N - 76° 34.9734' W; running westerly along the six foot depth near Marker "3" to a point 35° 05.6400' N - 76° 35.6433' W; running southwesterly to the beginning point.
- (C) Gum Thicket Shoal - beginning on shore west of Gum Thicket Creek at a point 35° 04.2169' N - 76° 36.2119' W; running southwesterly along shore to a point 35° 04.0634' N - 76° 36.6548' W; running southerly to a point 35° 03.6833' N - 76° 36.7166' W; running easterly along the six foot depth to a point 35° 03.9166' N - 76° 35.8000' W; running northwesterly to the beginning point.
- (D) Orchard Creek - beginning on the eastern shore at and running southwesterly along the Orchard and Old House Creeks primary nursery area line to Cockle Point; running easterly to a point 35° 03.3000' N - 76° 37.8833' W; running northerly to the beginning point.
- (E) Dawson Creek - beginning on the eastern shore of Dawson Creek at a point 34° 59.5800' N - 76° 45.4140' W; running westerly along the bridge to the western shore to a point 34° 59.5920' N - 76° 45.4620' W; running southwesterly along shore to a point 34° 59.0667' N - 76° 45.9000' W; running southeasterly to a point 34° 58.7833' N - 76° 45.6500' W; running northerly along the six foot depth to a point 34° 59.3666' N - 76° 45.3166' W; running northwesterly near Marker "4" to a point 34° 59.4430' N - 76° 45.4521' W; running northerly to the beginning point.
- (F) Pine Cliff Recreation Area - beginning on shore at a point 34° 56.4333' N - 76° 49.5833' W; running easterly along shore to a point 34° 56.3422' N - 76° 49.1158' W; running northeasterly near Marker "2" to a point 34° 56.7650' N - 76° 48.5778' W; running northerly to a point 34° 56.8333' N - 76° 48.6000' W; running southwesterly along the six foot depth to a point 34° 56.6067' N - 76° 49.6190' W; running southerly to the beginning point.

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

15A NCAC 03R .0116 DESIGNATED SEED OYSTER MANAGEMENT AREAS

The Seed Oyster Management Areas referenced in 15A NCAC 03K .0208 are delineated in the following coastal water areas:

- (1) Croatan Sound and tributaries: Cedar Bush Bay Seed Oyster Management Area, within the area described by a line beginning at a point 35° 50.0383' N - 75° 40.0712' W; running easterly to a point 35° 50.2328' N - 75° 39.4930' W; running southeasterly to a point 35° 49.3831' N - 75° 39.1521' W; running southwesterly to a point 35° 48.8000' N - 75° 39.5000' W; running westerly to a point 35° 48.6333' N - 75° 40.7000' W; running northerly to a point 35° 49.7000' N -

- 75° 40.6333' W; running northeasterly back to the point of beginning;
- (2) Croatan and Roanoke sounds and tributaries: Wanchese Marshes Seed Oyster Management Area, within an area described by a line beginning at a point 35° 49.0000' N - 75° 38.3000' W; running northerly to a point 35° 49.2243' N - 75° 38.3000' W; running easterly to a point 35° 49.0806' N - 75° 37.5293' W; running easterly to a point 35° 49.2893' N - 75° 37.0335' W; running northeasterly to point 35° 49.5541' N - 75° 36.9715' W; running southerly to a point 35° 49.0000' N - 75° 36.5500' W; running southwesterly to a point 35° 48.1500' N - 75° 36.9500' W; running westerly to a point 35° 48.1000' N - 75° 37.6333' W; running northwesterly to the point of beginning;
- (3) Pamlico Sound and tributaries: Bay River Seed Oyster Management Area, within an area described by a line beginning at a point 35° 10.7670' N - 76° 36.7000' W off Spencer Point; running southeasterly to a point 35° 10.5330' N - 76° 36.4670' W; running westerly to a point 35° 10.4670' N - 76° 36.6500' W; running northwesterly to a point 35° 10.8000' N - 76° 36.9170' W, running easterly to the point of beginning;
- (4) White Oak River: White Oak River Seed Oyster Management Area, within an area described by a line beginning at a point 34° 43.0774' N - 77° 06.8610' W on the White Oak River/Stevens Creek polluted area line; running northeasterly to a point 34° 43.4006' N - 77° 06.1293' W on the east shore; running southerly along the shoreline to a point 34° 43.0755' N - 77° 06.1187' W; running southwesterly to a point 34° 42.8800' N - 77° 06.7975' W on the White Oak River/Stevens Creek polluted area line; running northerly to the point of beginning;
- (5) New River area:
- (a) Possum Bay Seed Oyster Management Area, within an area described by a line beginning at a point 34° 32.1256' N - 77° 21.3781' W; running northeasterly to a point 34° 32.2773' N - 77° 21.1194' W; running northwesterly to a point 34° 32.3365' N - 77° 21.1720' W; running southwesterly to a point 34° 32.2068' N - 77° 21.3958' W; running south to the point of beginning; and
- (b) Swan Point Seed Oyster Management Area, within an area described by a line beginning at a point 34° 32.9488' N - 77° 21.6843' W; running

southerly to a point 34° 32.9040' N - 77° 21.6704' W; running northeasterly to a point 34° 33.0376' N - 77° 21.5339' W; running northwesterly to a point 34° 33.0693' N - 77° 21.5923' W; running southwesterly to the point of beginning; and

- (5)(6) Topsail Sound and tributaries:
- (a) Virginia Creek Seed Oyster Management Area, within an area described by a line beginning at a point 34° 25.4620' N - 77° 36.0074' W on the north shore; running southerly to a point 34° 25.1346' N - 77° 36.0640' W on the south shore; running easterly and southerly along the shoreline to a point 34° 24.9438' N - 77° 35.5325' W on Sloop Point; running northeasterly to a point 34° 25.0988' N - 77° 35.2920' W on the north shore; running northwesterly along the shoreline to the point of beginning; and
- (b) Topsail Sound Seed Oyster Management Area, within an area described by a line beginning at a point 34° 24.6555' N - 77° 35.6012' W across the IWW from Sloop Point; running southeasterly to a point 34° 24.3677' N - 77° 35.2015' W; running northeasterly to a point 34° 24.5260' N - 77° 35.1070' W; running northwesterly to a point 34° 24.8690' N - 77° 35.2872' W; running southwesterly to the point of beginning.

Authority G.S. 113-134; 113-182; 113-203; 143B-289.52.

15A NCAC 03R .0118 EXEMPTED CRAB POT ESCAPE RING AREAS

The areas referenced in 15A NCAC 03J .0301(g) are delineated in the following coastal fishing waters:

- (1) Pamlico Sound - within the area described by a line beginning at a point 35° 43.7457' N - 75° 30.7014' W on the south shore of Eagles Nest Bay on Pea Island; running westerly to a point 35° 42.9500' N - 75° 34.1500' W; running southerly to a point 35° 39.3500' N - 75° 34.4000' W; running southeasterly to a point 35° 35.8931' N - 75° 31.1514' W in Chicamacomico Channel near Beacon "ICC"; running southerly to a point 35° 28.5610' N - 75° 31.5825' W on Gull Island; running southwesterly to a point 35° 22.8671' N - 75° 33.5851' W in Avon Channel near Beacon "1AV"; running southwesterly to a point 35°

18.9603' N - 75° 36.0817' W in Cape Channel near Beacon "2"; running westerly to a point 35° 16.7588' N - 75° 44.2554' W in Rollinson Channel near Beacon "42RC"; running southwesterly to a point 35° 14.0337' N - 75° 45.9643' W southwest of Oliver Reef near the quick-flashing beacon; running westerly to a point 35° 09.3650' N - 76° 00.6377' W in Big Foot Slough Channel near Beacon "14BF"; running southwesterly to a point 35° 08.4523' N - 76° 02.6651' W in Nine Foot Shoal Channel near Beacon "9"; running westerly to a point 35° 07.1000' N - 76° 06.9000' W; running southwesterly to a point 35° 01.4985' N - 76° 11.4353' W near Beacon "HL"; running southwesterly to a point 35° 00.2728' N - 76° 12.1903' W near Beacon "ICS"; running southerly to a point 34° 59.5027' N - 76° 12.3204' W in Wainwright Channel immediately east of the northern tip of Wainwright Island; running southwesterly to a point 34° 59.3610' N - 76° 12.6040' W on Wainwright Island; running easterly to a point at 34° 58.7853' N - 76° 09.8922' W on Core Banks; running easterly and northerly along the shoreline across the inlets following the COLREGS Demarcation line up the Outer Banks to the point of beginning.

- (2) Newport River, from April 1 through June 15 - within the area described by a line beginning at a point 34° 49.5080' N - 76° 41.4440' W; running westerly along the south side of the Highway 101 Bridge over Core Creek to a point on the west shore 34° 49.5260' N - 76° 41.5130' W; running along the shoreline of Newport River and its tributaries to a point 34° 49.3050' N - 76° 44.2350' W; running westerly along the south side of the Highway 101 Bridge over Harlowe Canal to a point on the west shore 34° 49.2980' N - 76° 44.2610' W; running along the shoreline of Newport River and its tributaries to a point 34° 45.2478' N - 76° 46.4479' W; running southerly along the Inland-Coastal Waters boundary line to a point 34° 45.1840' N - 76° 46.4488' W; running along the shoreline of Newport River and its tributaries to a point 34° 43.2520' N - 76° 41.6840' W; running easterly along the north side of the Highway 70 Bridge over Newport River to a point 34° 43.2840' N - 76° 41.2200' W; running along the shoreline of Newport River and its tributaries to a point 34° 43.3530' N - 76° 40.2080' W; running easterly across Gallant Channel to a point 34° 43.3521' N - 76° 40.0871' W; running along the shoreline of Newport River and its tributaries back to the point of beginning.

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

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 15A NCAC 13B .0832.

Agency obtained G.S. 150B-19.1 certification:

- ☒ **OSBM certified on:** June 6, 2013
☐ **RRC certified on:**
☐ **Not Required**

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://portal.ncdenr.org/web/wm/sw/rules>

Proposed Effective Date: January 1, 2014

Public Hearing:

Date: August 16, 2013

Time: 1:00 p.m.

Location: Cardinal Room, 5605 Six Forks Road, Raleigh, NC 27609

Reason for Proposed Action: *The Division of Waste Management seeks to change a rule in order to establish additional general provisions for septage management firm requirements for managing septage in North Carolina. The proposed rules are substantively identical to existing requirements in Session Law 2011-256. Specifically, the rule changes will require only person(s) who are permitted as a septage management firms to contract or subcontract portable toilets for managing septage waste, provided the person has first met all the septage management firm permit requirements, by which will reduce any unreasonable risk to public health. Generally, Septage Management Firm means a person engaged in the business of pumping, transporting, storing, treating or disposing septage (G.S. 130A-290 (33)).*

Comments may be submitted to: Ellen Lorscheider, Division of Waste Management, MSC 1646, Raleigh, NC 27699-1646; phone (919) 707-8245; fax (919) 707-8245; email ellen.lorscheider@ncdenr.gov

Comment period ends: September 30, 2013

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 by G.S. 150B-21.4**

CHAPTER 13 - SOLID WASTE MANAGEMENT

SUBCHAPTER 13B - SOLID WASTE MANAGEMENT

SECTION .0800 - SEPTAGE MANAGEMENT

15A NCAC 13B .0832 GENERAL PROVISIONS

(a) General permitting requirements.

- (1) No person shall manage septage, or any part of septage, or operate a Septage Management Firm without first obtaining a permit from the Division as required under G.S. 130A-291.1(c);
- (2) The permit requirement of G.S. 130A-291.1(c) applies to persons who remove septage, and other waste materials or spent media from wastewater systems permitted by the Division of Environmental Health, under the authority of Article 11, Chapter 130A of the North Carolina General Statutes;
- (3) The permit requirement of G.S. 130A-291.1(c) applies to persons who manage septage generated from properties which they own, lease or manage as part of a business, including but not limited to mobile homes, mobile home parks, restaurants, and other residential and commercial property;
- (4) The Division may deny a permit application, in accordance with G.S. 130A-295.3(c);
- (5) The Division may require an applicant, to demonstrate substantial compliance in accordance with G.S. 130A-294(b2)(2);
- (6) All conditions for permits issued in accordance with this Section shall be followed;
- (7) Where specified in this Section permit applications or specific portions of applications shall be prepared by a qualified environmental professional in accordance with 15A NCAC 13B .0202(a)(3); and
- (8) Initial septage land application site and detention and treatment facility permits shall be issued for a maximum of one year. Renewal permits shall be issued for five years if the facility has not had a major violation and records have been maintained in accordance with this Section.

(b) Portable sanitation permitting provisions.

- (1) A mobile or modular office that meets the criteria of G.S. 130-291.2 shall be considered a chemical or portable toilet as defined in G.S. 130A-290(1c). Leaks or overflows of the storage tank at a mobile or modular office shall be considered illegal land application and shall be the responsibility of the office occupant and owner of the mobile or modular office.
- (2) No person shall rent or lease portable toilet(s) or contract or subcontract to rent or lease portable toilet(s) or manage or dispose of waste from portable toilet(s), regardless of ownership of the toilet(s) unless that person is permitted to operate a septage management firm.
- (3) Placement of a chemical or portable toilet as defined in G.S. 130A-290(1c) for potential use in North Carolina shall be considered operation of a septage management firm which requires a permit.

(c) Recreational vehicle waste provisions.

- (1) Domestic septage from a recreational vehicle shall be managed in accordance with this Section or shall flow directly into a wastewater treatment system permitted by the Department of Environment and Natural Resources.
- (2) Wastewater from recreational vehicles that are tied down, blocked up, or are not relocated on a regular basis, and are not connected to an approved wastewater system, shall be managed in accordance with Article 11, Chapter 130A of the NC General Statutes.
- (3) Recreational vehicle dump stations that do not discharge directly to a wastewater treatment system permitted by the Department of Environment and Natural Resources shall be permitted as a septage detention and treatment facility in accordance with this Section.

(d) Alternate septage management method limitations.

- (1) Grease septage, or any part of grease septage, shall not be introduced or reintroduced into a grease trap, interceptor, separator, or other appurtenance used for the purpose of removing cooking oils, fats, grease, and food debris from the waste flow generated from food handling, preparation, and cleanup unless the Division has received written approval from the wastewater treatment plant operator or the onsite wastewater system permitting authority that reintroduction is acceptable.
- (2) Septage, or any part of septage, shall not be reintroduced into an onsite wastewater system unless approved pursuant to G.S. 130A-343(c).
- (3) Septage, or any part of septage, shall not be placed in containers at restaurants designated for yellow grease.

- (4) Septage, or any part of septage, shall not be disposed of in a municipal solid waste landfill unless the waste passes the paint filter test and the landfill receiving the waste has provided the Division written documentation that the specific material will be accepted.
 - (5) Septage, or any part of septage, shall not be disposed of in a dumpster unless the waste passes the paint filter test, the landfill receiving the waste is a properly permitted municipal solid waste landfill, in accordance with 15A NCAC 13B .1600, and the landfill operator has provided the Division written documentation that the specific material will be accepted.
 - (6) Septage, or any part of septage, managed through subsurface disposal shall be considered a treatment facility and shall require a permit in accordance with this Section and G.S. 130A-343.
 - (7) Facilities receiving septage, or any part of septage, for composting shall be permitted in accordance with Section .1400 of these Rules.
- (e) All training, to meet the requirements of G.S. 130A-291.3(a) and (b), must be pre-approved by the Division.
- (f) Waste from holding tanks, not otherwise addressed in this Section, and from wastewater systems pumped more often than every 30 days shall not be considered domestic septage and shall not be land applied at a permitted septage land application site.
- (g) Inspection and entry. The permit holder of a septage management firm or facility shall allow a representative of the Division to:
- (1) Enter the permit holder's premises where a regulated facility or activity is located or conducted;
 - (2) Access and copy any records required in accordance with this Section or conditions of the permit;
 - (3) Inspect any facilities, equipment (including monitoring and control equipment), practices or operations regulated by the Division;
 - (4) Sample or monitor for the purposes of assuring permit compliance or as otherwise authorized by the Federal Clean Water Act or the North Carolina Solid Waste Management Act, any substances, parameters or soils at any location; and
 - (5) Photograph for the purpose of documenting times of compliance or noncompliance at septage management facilities, or where appropriate to protect legitimate proprietary interests, require the permit holder to make such photos for the Division.
- (h) Failure of a person to follow a requirement in any rule set forth in this Section or the taking of any action prohibited by any rule in this Section shall constitute a violation of that rule.
Authority G.S. 130A-291.1.

TITLE 21 – OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 63 - SOCIAL WORK CERTIFICATION AND LICENSURE BOARD

Notice is hereby given in accordance with G.S. 150B-21.2 that the Social Work Certification and Licensure Board intends to amend the rules cited as 21 NCAC 63 .0405, .0701 and .0704.

Agency obtained G.S. 150B-19.1 certification:

- ☐ **OSBM certified on:**
- ☐ **RRC certified on:**
- ☒ **Not Required**

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncswboard.org

Proposed Effective Date: *December 1, 2013*

Public Hearing:

Date: *September 3, 2013*

Time: *9:30 a.m.*

Location: *1207 S. Cox Street, Suite F, Asheboro, NC 27203*

Reason for Proposed Action:

21 NCAC 63 .0405 – Clarify to social workers certified or licensed by the Board, the expectation that adverse action by another occupational licensing board, a professional certifying body or professional organization for conduct that impacts their social work credential to disciplinary action pursuant G.S. 90B-11 shall be reported to this Board.

21 NCAC 63 .0701, .0704 – To amend the language to reflect actual practice. Specifically, the Board wants correspondence to be submitted to the Board via the Executive Director (who is the Rule-Making Coordinator) rather than the Secretary of the Board.

Comments may be submitted to: *Micki Lilly, Executive Director, NCSWCLB, P. O. Box 1043, Asheboro, NC 27204; phone (336) 625-1679*

Comment period ends: *September 30, 2013*

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 by G.S. 150B-21.4**

SECTION .0400 - RENEWAL OF CERTIFICATION

21 NCAC 63 .0405 REQUIRED REPORTING BY LICENSEE OF CHANGES TO BOARD

(a) Each licensee shall notify the Board in writing of the following changes within 30 days of the effective date of the changes:

- (1) Each change of the licensee's name, which shall be accompanied by documentation such as a certified marriage certificate or driver's license; and,
- (2) Each change in the licensee's residence or business address, including street and mailing address; and
- (3) Each change in the licensee's residence or business telephone number.
- (4) Any adverse action or disciplinary action against a licensee or certificate holder from a licensing board, professional certifying body, or professional organization for any conduct described in G.S. 90B-11.

(b) Within 30 days of the effective date of a disposition in a criminal matter in which the licensee is defendant, including driving under the influence, each licensee shall send to the Board a certified copy of any plea of guilty, finding of guilty, plea of nolo contendere, or deferred judgment.

(c) The licensee's failure to report the foregoing criminal dispositions to the Board shall be considered a violation of the Ethical Guidelines, Section .0500.

Authority G.S. 90B-6; 90B-9; 90B-11.

SECTION .0700 – ADMINISTRATIVE PROCEDURES

21 NCAC 63 .0701 PETITIONS FOR ADOPTION OF RULES

(a) The procedure for petitioning the Board to adopt, amend, or repeal a rule is governed by G.S. 150B-20.

(b) Submission. Rule-making petitions shall be sent to the secretary executive director of the Board. No special form is

required, but the petitioner shall state his or her name and address. Beyond the requirement that the petitioner submit the proposed text of any requested rule change and a statement of the effect of the requested change, there are no mandatory contents of a petition. However, the Board considers the following information to be pertinent:

- (1) the reason for its proposal;
- (2) data supporting the proposed rule;
- (3) practices likely to be affected by the proposed rule;
- (4) persons likely to be affected by the proposed rule.

(c) Disposition. The ~~secretary~~ executive director shall review the petition and develop a recommendation as to whether the petitioner's proposed rule should be rejected or implemented. The ~~secretary~~ executive director shall present the petition and his or her recommendation to the Board at its next regular meeting following receipt of the petition, and the Board shall render its decision to either deny the petition or initiate rule-making. The Board shall notify the petitioner of its decision in writing within the 120-day period set by G.S. 150B-20.

Authority G.S. 90B-6(h); 150B-20.

21 NCAC 63 .0704 DECLARATORY RULINGS

(a) General. The issuance of declaratory rulings by the Board is governed by G.S. 150B-4.

(b) Request for Declaratory Ruling; Contents. A request for a declaratory ruling shall be in writing and addressed to the ~~secretary~~ executive director of the Board. The request shall contain the following information:

- (1) The name and address of the person making the request;
- (2) The statute or rule to which the request relates;
- (3) A concise statement of the manner in which the person has been aggrieved by the statute or rule;
- (4) A statement as to whether a hearing is desired, and if desired, the reason therefore.

(c) Refusal to Issue Ruling. The Board shall ordinarily refuse to issue a declaratory ruling under the following circumstances:

- (1) When the Board has already made a controlling decision on substantially similar facts in a contested case;
- (2) When the facts underlying the request for a ruling were specifically considered at the time of the adoption of the rule in question;
- (3) When the subject matter of the request is involved in pending litigation in North Carolina.

Authority G.S. 90B-6(h); 150B-4.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on June 20, 2013.

**REGISTER CITATION TO THE
NOTICE OF TEXT****COMMERCE, DEPARTMENT OF - CREDIT UNION DIVISION**

<u>Notice of Rule Making Hearing</u>	04	NCAC	06B	.0302*	27:16 NCR
<u>Rule Making Hearings: General Information</u>	04	NCAC	06B	.0303*	27:16 NCR
<u>Definitions</u>	04	NCAC	06C	.0101*	27:16 NCR
<u>Listing of Officials and Operating Hours</u>	04	NCAC	06C	.0307*	27:16 NCR
<u>Surety Bond and Insurance Coverage</u>	04	NCAC	06C	.0311*	27:16 NCR
<u>Financial Statements and Other Information</u>	04	NCAC	06C	.0801*	27:16 NCR

CULTURAL RESOURCES, DEPARTMENT OF

<u>State Historic Site Fees</u>	07	NCAC	04N	.0202*	27:16 NCR
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PUBLIC HEALTH, COMMISSION FOR

<u>Reportable Diseases and Conditions</u>	10A	NCAC	41A	.0101*	27:15 NCR
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ENVIRONMENTAL MANAGEMENT COMMISSION

<u>Neuse River Basin: Nutrient Sensitive Waters Management S...</u>	15A	NCAC	02B	.0242	27:14 NCR
<u>Catawba River Basin: Mitigation Program for Protection an...</u>	15A	NCAC	02B	.0244	27:14 NCR
<u>Randleman Lake Water Supply Watershed: Mitigation Program...</u>	15A	NCAC	02B	.0252	27:14 NCR
<u>Tar-Pamlico River Basin - Nutrient Sensitive Waters Manag...</u>	15A	NCAC	02B	.0260	27:14 NCR
<u>Jordan Water Supply Nutrient Strategy: Mitigation for Rip...</u>	15A	NCAC	02B	.0268	27:14 NCR
<u>Site Specific Water Quality Management Plan for the...</u>	15A	NCAC	02B	.0609	27:14 NCR
<u>Development in Urbanizing Areas</u>	15A	NCAC	02H	.0152*	27:13 NCR
<u>Development in Urbanizing Areas</u>	15A	NCAC	02H	.1016	27:13 NCR

COASTAL RESOURCES COMMISSION

<u>Program Costs</u>	15A	NCAC	07I	.0401*	27:14 NCR
<u>Application Fees</u>	15A	NCAC	07I	.0406*	27:14 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Out-of-State Waste in Sanitary Landfills</u>	15A	NCAC	13B	.0108*	n/a G.S. 150B-21.5(b)(1)
<u>Option to Apply for Issuance of 10-Year Permit for Sanita...</u>	15A	NCAC	13B	.0206	27:13 NCR
<u>Application Requirements for Sanitary Landfills</u>	15A	NCAC	13B	.0504*	27:13 NCR

PODIATRY EXAMINERS, BOARD OF

<u>Military License</u>	21	NCAC	52	.0211*	27:16 NCR
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The following rule is subject to the next Legislative Session. (See G.S. 150B-21.3)

PUBLIC HEALTH, COMMISSION FOR
Public Well Water Supplies

15A NCAC 18C .0203 27:14 NCR

TITLE 04 – DEPARTMENT OF COMMERCE

04 NCAC 06B .0302 NOTICE OF RULE-MAKING HEARINGS

Any person or agency desiring to be placed on the mailing list for the Administrator's rule-making notices may file such request by furnishing a name and mailing address in writing to the Division at its mailing address. The request must state the subject areas within the authority of the Administrator's office for which the notice is requested. The Administrator may require actual postage and stationery costs to be paid by persons receiving such notices if the person receiving the notices requests more than one copy of the notice.

History Note: Authority G.S. 54-109.12; 150B-21.2;
 Eff. June 1, 1990;
 Amended Eff. July 1, 2013.

04 NCAC 06B .0303 RULE-MAKING HEARINGS: GENERAL INFORMATION

The hearing officer shall have control of the proceedings, including extensions of any time requirements, order of presentations, time allotments for presentations, direction of the flow of the discussion and the management of the hearing. Each person participating in the hearing shall be given an opportunity to present views, data, and comments.

History Note: Authority G.S. 54-109.12; 150B-21.2;
 Eff. June 1, 1990;
 Amended Eff. July 1, 2013.

SUBCHAPTER 06C - CREDIT UNIONS

SECTION .0100 - GENERAL INFORMATION

04 NCAC 06C .0101 DEFINITIONS

When used in this Subchapter, the following words and phrases shall have the following meaning, except to the extent that any such word or phrase is specifically qualified by its context:

- (1) "Administrator" means the Administrator of State-Chartered Credit Unions.
- (2) "Board of Directors" means at least five persons elected or appointed to oversee the management of each organization.
- (3) "Book value of loans" means the dollar amount of loans the Credit Union has on its books.
- (4) "Branch Office" means a facility which a Credit Union maintains and staffs at a location

- (5) other than its main office to furnish Credit Union services to its members.
- (6) "Capital" consists of shares, undivided earnings, and reserves.
- (7) "Commission" means the Credit Union Commission established by G.S. 143B-439.
- (8) "Corporate Credit Union" means a Credit Union with an institutional field of membership, as set forth in G.S. 54-110.1.
- (9) "Credit union" means a cooperative nonprofit corporation organized for the purpose of promoting thrift among its members by affording them an opportunity for accumulating their savings; and to create for them a source of credit for loans for provident and productive purposes. It may undertake such other activities relating to the purpose of the corporation as its bylaws may provide, such Credit Union being chartered under the General Statutes of North Carolina.
- (10) "Credit Union Service Organization" or "CUSO" means an organization formed and operated by Credit Union(s), or associations or organizations of Credit Unions, to provide revenue generating services of the highest quality to Credit Union members, Credit Unions and others which are needed or wanted and can be provided efficiently and economically with a satisfactory overall rate of return on investment.
- (11) "Deposits" means a preferred savings account on which the Credit Union is obligated to pay a guaranteed interest rate on a continuing basis in such amounts and terms as the Board of Directors approve.
- (12) "Dividend" means an operating expense of a Credit Union which is declared payable on share accounts from time to time by the Board of Directors. Dividends are paid as set forth in G.S. 54-109.54.
- (13) "EDP" means electronic data processing.
- (14) "Funds" means cash on hand or cash in the bank and investments.
- (15) "Interest on deposit accounts" is an expense paid by the Credit Union for obtaining funds in a deposit account.
- (16) "Interest on loans" means an amount charged to a member for borrowing funds from a Credit Union at a specified rate as declared by

- the Board of Directors, not to exceed the maximum legal rate.
- (17) "Interest refund" means a percentage of the interest collected on loans which is refunded to those members who borrowed during a specific period pursuant to action of the Board of Directors.
- (18) "Members" means persons or organizations who have been accepted for membership by either the Board, membership officer, or an executive committee, after having met qualifications of being within the field of membership.
- (19) "Membership" in a Credit Union is limited to those persons or groups as stipulated in the bylaws of such Credit Union.
- (20) "Membership fee" means a fee that may be charged to applicants for membership as an entrance fee or as an annual membership fee as determined by the Board of Directors or as the bylaws may provide.
- (21) "Reserve fund" means the portion of income to be entered on the books of the corporation to offset uncollectible loans in accordance with Section 54-109.86 of the General Statutes.
- (22) "Shares" means the primary capital owned by the members and is comprised of the savings of the members. The par value shall be as the bylaws provide.
- (23) Types of investment transactions are defined as follows:
- (a) "Standby commitments" means an agreement to purchase or sell a security at a future date, whereby the buyer is required to accept delivery of the security at the option of the seller.
- (b) "Cash forward agreement" means an agreement to purchase or sell a security at a future date more than five days after the agreement is made and requires mandatory delivery and acceptance.
- (c) "Reverse repurchase agreement" means an agreement whereby a credit union enters into an understanding to sell securities to a purchaser and to repurchase the same securities from that purchaser at a future date, regardless of the amount of consideration paid by the Credit Union or the purchaser.
- (d) "Repurchase agreement" means an agreement whereby a Credit Union enters into an agreement to buy securities from a vendor and to resell securities at a future date. Repurchase agreements may be of two types:
- (i) "Investment-type repurchase agreement" means a

repurchase that contains the essential elements of a sale of security as specified in Rule .1202(5) of this Subchapter.

- (ii) "Loan-type repurchase agreement" means any repurchase agreement that does not qualify as an investment-type repurchase agreement.

- (e) "Future" means a standardized contract for the future delivery of commodities, including certain government securities, sold on designated commodities exchange.

- (24) "Unimpaired capital" consists of the shares, undivided surplus and reserves less any known or probable losses, as determined by management.

History Note: Authority G.S. 54-109.1; 54-109.2; 54-109.12; 54-109.21(25); 54-109.26; 54-109.86; 143-439; Eff. February 1, 1976; Readopted Eff. April 4, 1978; Amended Eff. July 1, 2013; January 1, 1992; October 1, 1983; April 1, 1979.

04 NCAC 06C .0307 LISTING OF OFFICIALS AND OPERATING HOURS

- (a) Each credit union shall notify the Administrator of the names and addresses of its officers, directors, committee members of the Credit Committee and Supervisory Committee, managers or internal auditors.
- (b) Each credit union shall notify the Administrator of its days and hours of operation.
- (c) The credit union shall notify the Administrator of any changes to the information required by this Rule within 10 business days.

History Note: Authority G.S. 54-109.12; Eff. February 1, 1976; Readopted Eff. April 4, 1978; Amended Eff. July 1, 2013.

04 NCAC 06C .0311 SURETY BOND AND INSURANCE COVERAGE

- (a) It shall be the duty of the Board of Directors to purchase a blanket fidelity bond including such other bond coverage as required by the statutes or as may be required by the Administrator as set forth in G.S. 54-109.44(2).
- (b) Every state chartered credit union shall maintain the minimum bond and insurance coverage as required by statute. No form of surety bond shall be used except as is approved by the Administrator. The approved bond forms are Credit Union Blanket Bond 500 Bond Series, plus faithful performance rider, NCUA Optional Form 581 or its equivalent. These bond forms shall be considered the minimum coverages required for the purpose of this section. The approved bond forms in this

Paragraph provide faithful performance coverage for all employees and officials. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officials, and supervisory and credit committee members. Other forms, or changes in the amount of bond coverage, must be approved by the Administrator.

(c) Maximum deductible limits may be applied to the required coverage contained in 500 Bond Series, as specified in this Paragraph:

<u>Assets</u>	<u>Maximum Deductible</u>
0 to \$100,000	-0-
\$100,001 to \$250,000	\$ 500
\$250,001 to \$500,000	50
\$500,001 to \$750,000	1,000
\$750,001 to \$1,000,000	1,500
\$1,000,001 to \$2,000,000	2,000
\$2,000,001 to \$3,000,000	3,000
\$3,000,001 to \$5,000,000	4,000
\$5,000,001 to \$50,000,000	5,000
\$50,000,001 to \$100,000,000	7,500
Over \$100,000,001	10,000

Deductibles in excess of those shown must be approved by the Administrator. In no event shall any deductible be applied to the fidelity coverage or the faithful performance provision of the bond unless approved by the Administrator.

(d) In considering a request to deviate from the bond coverage and deductible amounts set forth in this Rule, the Administrator shall consider the credit union's:

- (1) financial strength;
- (2) net worth;
- (3) return on assets;
- (4) quality of assets; and
- (5) Capital, Assets, Management, Earnings, and Liquidity (CAMEL) rating, used by the Division and NCUA to evaluate the soundness of credit unions on a uniform basis.

History Note: Authority G.S. 54-109.11 (5); 54-109.12; 54-109.44 (2);

Eff. April 1, 1981;

Amended Eff. July 1, 2013; February 1, 1992; April 1, 1985.

04 NCAC 06C .0801 FINANCIAL STATEMENTS AND OTHER INFORMATION

Each credit union shall furnish a report of condition due on the same date as designated by the federal insurer in January, April, July, and October. The report shall be submitted to the Administrator on forms supplied by the federal insurer for that purpose. The Administrator shall assess fines and penalties for reports not timely filed, as set forth in G.S. 54-109.13 and G.S. 54-109.15(b).

History Note: Authority G.S. 54-109.12; 54-109.13; 54-109.15;

Eff. February 1, 1976;

Readopted Eff. April 4, 1978;

Amended Eff. July 1, 2013; December 1, 1979.

TITLE 07 – DEPARTMENT OF CULTURAL RESOURCES

07 NCAC 04N .0202 STATE HISTORIC SITES FEES

(a) The following sites do not charge an admission fee:

- (1) Alamance Battleground;
- (2) Aycock Birthplace;
- (3) Bennett Place;
- (4) Bentonville Battleground;
- (5) Brunswick Town;
- (6) Caswell-Neuse;
- (7) Duke Homestead;
- (8) Fort Dobbs;
- (9) Fort Fisher;
- (10) Historic Halifax;
- (11) House in the Horseshoe;
- (12) Polk Memorial;
- (13) Reed Gold Mine;
- (14) Somerset Place;
- (15) Town Creek Indian Mound;
- (16) Vance Birthplace;
- (17) Charlotte Hawkins Brown Memorial; and
- (18) Horne Creek Living History Farm.

(b) The following site charges an admission fee of five dollars (\$5.00) for adults; two dollars (\$2.00) for children (ages 3 to 12); and one half off the regular admission price for groups of ten or more: Thomas Wolfe Memorial.

(c) The following site charges an admission fee of one dollar (\$1.00) for adults and twenty-five cents (\$0.25) for children (ages 3 to 12): James Iredell House.

(d) The following site charges an admission fee of two dollars (\$2.00) for adults; one dollar (\$1.00) for children (ages 3 to 12); and one half off the regular admission price for groups of ten or more for each historic structure:

- (1) Historic Bath, Bonner House; and
- (2) Historic Bath, Palmer-Marsh House.

(e) The North Carolina Transportation Museum at Spencer charges admission fees as follows:

- (1) General Admission: Six dollars (\$6.00) for adults; five dollars (\$5.00) for seniors (age 65 and older) and active military; four dollars (\$4.00) for students (ages 3 to 12); and free for children (ages 0 to 2).
- (2) Group Admission (15 or more visitors): Five dollars (\$5.00) for adults; four dollars and fifty cents (\$4.50) for seniors (age 65 and older) and active military; two dollars and fifty cents (\$2.50) for students (ages 3 to 12); and free for children (ages 0 to 2).

(f) The following site charges a gold panning fee of three dollars (\$3.00) per person and two dollars (\$2.00) for groups of ten or more: Reed Gold Mine.

History Note: Authority G.S. 121-7.3;

Eff. February 1, 1985;

Amended Eff. January 1, 1990; June 1, 1989;

Emergency Amendment Eff. July 14, 2011;

Temporary Amendment Eff. September 23, 2011;

*Amended Eff. August 1, 2012;
Codifier determined that findings of need did not meet the
criteria for emergency rule on August 2, 2012;
Emergency Amendment Eff. August 10, 2012;
Emergency Amendment Expired November 3, 2012;
Codifier determined that findings of need did not meet the
criteria for emergency rule on November 30, 2012;
Emergency Amendment Eff. December 10, 2012;
Emergency Amendment Expired March 3, 2013;
Amended Eff. July 1, 2013.*

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

CHAPTER 41 – HEALTH: EPIDEMIOLOGY

**SUBCHAPTER 41A – COMMUNICABLE DISEASE
CONTROL**

**SECTION .0100 – REPORTING OF COMMUNICABLE
DISEASES**

**10A NCAC 41A .0101 REPORTABLE DISEASES AND
CONDITIONS**

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- (1) acquired immune deficiency syndrome (AIDS) - 24 hours;
- (2) anthrax - immediately;
- (3) botulism - immediately;
- (4) brucellosis - 7 days;
- (5) campylobacter infection - 24 hours;
- (6) chancroid - 24 hours;
- (7) chlamydial infection (laboratory confirmed) - 7 days;
- (8) cholera - 24 hours;
- (9) Creutzfeldt-Jakob disease – 7 days;
- (10) cryptosporidiosis – 24 hours;
- (11) cyclosporiasis – 24 hours;
- (12) dengue - 7 days;
- (13) diphtheria - 24 hours;
- (14) *Escherichia coli*, shiga toxin-producing - 24 hours;
- (15) ehrlichiosis – 7 days;
- (16) encephalitis, arboviral - 7 days;
- (17) foodborne disease, including *Clostridium perfringens*, staphylococcal, *Bacillus cereus*, and other and unknown causes - 24 hours;
- (18) gonorrhea - 24 hours;
- (19) granuloma inguinale - 24 hours;
- (20) *Haemophilus influenzae*, invasive disease - 24 hours;
- (21) Hantavirus infection – 7 days;
- (22) Hemolytic-uremic syndrome – 24 hours;

- (23) Hemorrhagic fever virus infection – immediately;
- (24) hepatitis A - 24 hours;
- (25) hepatitis B - 24 hours;
- (26) hepatitis B carriage - 7 days;
- (27) hepatitis C, acute – 7 days;
- (28) human immunodeficiency virus (HIV) infection confirmed - 24 hours;
- (29) influenza virus infection causing death in persons less than 18 years of age – 24 hours;
- (30) legionellosis - 7 days;
- (31) leprosy – 7 days;
- (32) leptospirosis - 7 days;
- (33) listeriosis – 24 hours;
- (34) Lyme disease - 7 days;
- (35) lymphogranuloma venereum - 7 days;
- (36) malaria - 7 days;
- (37) measles (rubeola) - 24 hours;
- (38) meningitis, pneumococcal - 7 days;
- (39) meningococcal disease - 24 hours;
- (40) monkeypox – 24 hours;
- (41) mumps - 7 days;
- (42) nongonococcal urethritis - 7 days;
- (43) novel influenza virus infection – immediately;
- (44) plague - immediately;
- (45) paralytic poliomyelitis - 24 hours;
- (46) pelvic inflammatory disease – 7 days;
- (47) psittacosis - 7 days;
- (48) Q fever - 7 days;
- (49) rabies, human - 24 hours;
- (50) Rocky Mountain spotted fever - 7 days;
- (51) rubella - 24 hours;
- (52) rubella congenital syndrome - 7 days;
- (53) salmonellosis - 24 hours;
- (54) severe acute respiratory syndrome (SARS) – 24 hours;
- (55) shigellosis - 24 hours;
- (56) smallpox - immediately;
- (57) *Staphylococcus aureus* with reduced susceptibility to vancomycin – 24 hours;
- (58) streptococcal infection, Group A, invasive disease - 7 days;
- (59) syphilis - 24 hours;
- (60) tetanus - 7 days;
- (61) toxic shock syndrome - 7 days;
- (62) trichinosis - 7 days;
- (63) tuberculosis - 24 hours;
- (64) tularemia – immediately;
- (65) typhoid - 24 hours;
- (66) typhoid carriage (*Salmonella typhi*) - 7 days;
- (67) typhus, epidemic (louse-borne) - 7 days;
- (68) vaccinia – 24 hours;
- (69) vibrio infection (other than cholera) – 24 hours;
- (70) whooping cough – 24 hours; and
- (71) yellow fever - 7 days.

(b) For purposes of reporting, "confirmed human immunodeficiency virus (HIV) infection" is defined as a positive virus culture, repeatedly reactive EIA antibody test confirmed by

western blot or indirect immunofluorescent antibody test, positive nucleic acid detection (NAT) test, or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of Public Health Laboratories.

(c) In addition to the laboratory reports for *Mycobacterium tuberculosis*, *Neisseria gonorrhoeae*, and syphilis specified in G.S. 130A-139, laboratories shall report:

- (1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:
 - (A) Any hantavirus or hemorrhagic fever virus.
 - (B) Arthropod-borne virus (any type).
 - (C) *Bacillus anthracis*, the cause of anthrax.
 - (D) *Bordetella pertussis*, the cause of whooping cough (pertussis).
 - (E) *Borrelia burgdorferi*, the cause of Lyme disease (confirmed tests).
 - (F) *Brucella* spp., the causes of brucellosis.
 - (G) *Campylobacter* spp., the causes of campylobacteriosis.
 - (H) *Chlamydia trachomatis*, the cause of genital chlamydial infection, conjunctivitis (adult and newborn) and pneumonia of newborns.
 - (I) *Clostridium botulinum*, a cause of botulism.
 - (J) *Clostridium tetani*, the cause of tetanus.
 - (K) *Corynebacterium diphtheriae*, the cause of diphtheria.
 - (L) *Coxiella burnetii*, the cause of Q fever.
 - (M) *Cryptosporidium parvum*, the cause of human cryptosporidiosis.
 - (N) *Cyclospora cayetanensis*, the cause of cyclosporiasis.
 - (O) *Ehrlichia* spp., the causes of ehrlichiosis.
 - (P) Shiga toxin-producing *Escherichia coli*, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.
 - (Q) *Francisella tularensis*, the cause of tularemia.
 - (R) Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.
 - (S) Human Immunodeficiency Virus, the cause of AIDS.

- (T) *Legionella* spp., the causes of legionellosis.
- (U) *Leptospira* spp., the causes of leptospirosis.
- (V) *Listeria monocytogenes*, the cause of listeriosis.
- (W) Monkeypox.
- (X) *Mycobacterium leprae*, the cause of leprosy.
- (Y) *Plasmodium falciparum*, *P. ovale*, and *P. vivax*, the causes of malaria in humans.
- (Z) Poliovirus (any), the cause of poliomyelitis.
- (AA) Rabies virus.
- (BB) *Rickettsia rickettsii*, the cause of Rocky Mountain spotted fever.
- (CC) Rubella virus.
- (DD) *Salmonella* spp., the causes of salmonellosis.
- (EE) *Shigella* spp., the causes of shigellosis.
- (FF) Smallpox virus, the cause of smallpox.
- (GG) *Staphylococcus aureus* with reduced susceptibility to vanomycin.
- (HH) *Trichinella spiralis*, the cause of trichinosis.
- (II) Vaccinia virus.
- (JJ) *Vibrio* spp., the causes of cholera and other vibrioses.
- (KK) Yellow fever virus.
- (LL) *Yersinia pestis*, the cause of plague.
- (2) Isolation or other specific identification of the following organisms from normally sterile human body sites:
 - (A) Group A *Streptococcus pyogenes* (group A streptococci).
 - (B) *Haemophilus influenzae*, serotype b.
 - (C) *Neisseria meningitidis*, the cause of meningococcal disease.
- (3) Positive serologic test results, as specified, for the following infections:
 - (A) Fourfold or greater changes or equivalent changes in serum antibody titers to:
 - (i) Any arthropod-borne viruses associated with meningitis or encephalitis in a human.
 - (ii) Any hantavirus or hemorrhagic fever virus.
 - (iii) *Chlamydia psittaci*, the cause of psittacosis.
 - (iv) *Coxiella burnetii*, the cause of Q fever.
 - (v) Dengue virus.
 - (vi) *Ehrlichia* spp., the causes of ehrlichiosis.
 - (vii) Measles (rubeola) virus.

- (viii) Mumps virus.
- (ix) Rickettsia rickettsii, the cause of Rocky Mountain spotted fever.
- (x) Rubella virus.
- (xi) Yellow fever virus.
- (B) The presence of IgM serum antibodies to:
 - (i) Chlamydia psittaci.
 - (ii) Hepatitis A virus.
 - (iii) Hepatitis B virus core antigen.
 - (iv) Rubella virus.
 - (v) Rubeola (measles) virus.
 - (vi) Yellow fever virus.
- (4) Laboratory results from tests to determine the absolute and relative counts for the T-helper (CD4) subset of lymphocytes and all results from tests to determine HIV viral load.

History Note: Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141;
Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988;
Eff. March 1, 1988;
Amended Eff. October 1, 1994; February 1, 1990;
Temporary Amendment Eff. July 1, 1997;
Amended Eff. August 1, 1998;
Temporary Amendment Eff. February 13, 2003; October 1, 2002; February 18, 2002; June 1, 2001;
Amended Eff. April 1, 2003;
Temporary Amendment Eff. November 1, 2003; May 16, 2003;
Amended Eff. January 1, 2005; April 1, 2004;
Temporary Amendment Eff. June 1, 2006;
Amended Eff. April 1, 2008; November 1, 2007; October 1, 2006;
Temporary Amendment Eff. January 1, 2010;
Temporary Amendment Expired September 11, 2011;
Amended Eff. July 1, 2013.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02B .0242 NEUSE RIVER BASIN: NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: MITIGATION PROGRAM FOR PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS

History Note: Authority 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1998, c. 221;
Temporary Adoption Eff. June 22, 1999;
Eff. August 1, 2000;
Repealed Eff. Pending Delayed Effective Date.

15A NCAC 02B .0244 CATAWBA RIVER BASIN: MITIGATION PROGRAM FOR PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS IN THE CATAWBA RIVER BASIN

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1999, c. 329, s. 7.1; S.B. 824-2003;
Temporary Adoption Eff. June 30, 2001 (exempt from 270 day requirement - S.L. 2001-418 & S.L. 2003-340);
Eff. August 1, 2004;
Repealed Eff. Pending Delayed Effective Date.

15A NCAC 02B .0252 RANDLEMAN LAKE WATER SUPPLY WATERSHED: MITIGATION PROGRAM FOR PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS

History Note: Authority 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1998, c. 221;
Eff. June 1, 2010;
Repealed Eff. Pending Delayed Effective Date.

15A NCAC 02B .0260 TAR-PAMLICO RIVER BASIN – NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: MITIGATION PROGRAM FOR PROTECTION AND MAINTENANCE OF RIPARIAN BUFFERS

History Note: Authority 143-214.1; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143B-282(d); S.L. 1999, c. 329, s. 7.1;
Temporary Adoption Eff. January 1, 2000;
Eff. August 1, 2000;
Repealed Eff. Pending Delayed Effective Date.

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

History Note: Authority 143-214.1; 143-214.5; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143 215.8B; 143B-282(c); 143B-282(d); S.L. 1999-329, s. 7.1.; S.L. 2005-190; S.L. 2006-259;
Eff. August 11, 2009;
Amended Eff. September 1, 2011;
Repealed Eff. Pending Delayed Effective Date.

15A NCAC 02B .0609 SITE SPECIFIC WATER QUALITY MANAGEMENT PLAN FOR THE GOOSE CREEK WATERSHED (YADKIN PEE-DEE RIVER BASIN): MANAGE ACTIVITIES WITHIN RIPARIAN BUFFERS: MITIGATION REQUIREMENTS FOR BUFFER IMPACTS

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143-215.8A;
Eff. February 1, 2009;
Repealed Eff. Pending Delayed Effective Date.

15A NCAC 02H .0152 DEVELOPMENT IN URBANIZING AREAS

(a) Development in Unincorporated Areas of Counties.

- (1) Development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county shall comply with the standards set forth in Rule .0154 of this Section beginning 1 July 2007 if the development is located in:
 - (A) An area that is designated as an urbanized area under the most recent federal decennial census.
 - (B) The unincorporated area of a county outside of a municipality designated as an urbanized area under the most recent federal decennial census that extends:
 - (i) One mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;
 - (ii) Two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and
 - (iii) Three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - (C) An area delineated pursuant to Item (2) of this Paragraph.
 - (D) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in Subparagraph (1)(B) of this Paragraph; (iii) the area delineated pursuant to Item (2) of this Paragraph; (iv) the jurisdiction of a regulated entity designated pursuant to Rule .0151(a) of this Section; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to Rule .0151(b) of this Section; and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed 75 percent of the total geographic area of the county. For

purposes of this Paragraph, the stormwater programs administered by the Division are:

- (i) Water Supply Watershed I (WS-I) – 15A NCAC 02B .0212;
 - (ii) Water Supply Watershed II (WS-II) – 15A NCAC 02B .0214;
 - (iii) Water Supply Watershed III (WS-III) – 15A NCAC 02B .0215;
 - (iv) Water Supply Watershed IV (WS-IV) – 15A NCAC 02B .0216;
 - (v) High Quality Waters (HQW) – 15A NCAC 02H .1006;
 - (vi) Outstanding Resource Waters (ORW) – 15A NCAC 02H .1007;
 - (vii) The Coastal Stormwater Program – 15A NCAC 02H .1005;
 - (viii) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0235;
 - (ix) The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 02B .0258;
 - (x) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 02B .0251; and
 - (xi) Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 02B .0223.
- (E) Subject to Subparagraph (4) of this Paragraph, a county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.
- (2) Delineation Process. The Commission shall delineate regulated coverage areas as provided in Subparagraphs (2)(A) through (F) below:
 - (A) Schedule. The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide

- water quality management plans as provided in G.S. 143-215.8B(c).
- (B) Potential candidate coverage areas. A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to Rule .0151(a) of this Section that:
- (i) Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;
 - (ii) Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and
 - (iii) Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
- (C) Identification of candidate coverage areas. The Commission shall identify an area within a potential candidate coverage area described in Part (2)(B) of this Paragraph as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
- (D) Notice and comment on candidacy. The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been identified as candidates for delineation as regulated coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.
- (E) Delineation of regulated coverage areas. After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:
- (i) Adversely impacts water quality; or
 - (ii) Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 02B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 02B .0300, et seq. (Assignment of Stream Classifications).
- (F) Notice of delineation. The Commission shall provide written notice to each public entity that is located in whole or in part in a candidate coverage area of its delineation determination. The notice shall state the basis for the determination.
- (3) Except as provided in this Paragraph and 15A NCAC 02H .1016(d), the Commission shall administer and enforce the standards for development in the regulated coverage areas. To the extent authorized by law, where the development is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in 15A NCAC 02H .1016(d).
- (4) A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that

has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004 is not a county under Part (1)(E) of this Paragraph and is not a county that is subject under this section to the requirements for development in the unincorporated areas of the county when that actual population growth rate occurred in an area within the county that consists of less than five percent of the total land area of the county.

(b) Development in Non-Phase II Incorporated Areas in Certain Counties. Development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county described in Subparagraphs (1)(D) and (E) of Paragraph (a), that are not designated as an urbanized area under the most recent federal decennial census, shall comply with the standards set forth in Rule .0151(a) of this Section of this act beginning 1 July 2007. The Commission shall administer and enforce the standards for development unless the public entity requests that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in 15A NCAC 02H .1016(d).

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2011-220; Eff. July 3, 2012; Amended Eff. July 1, 2013.

15A NCAC 02H .1016 DEVELOPMENT IN URBANIZING AREAS

(a) Development in Unincorporated Areas of Counties.

- (1) Development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county shall comply with the standards set forth in Rule .1018 of this Section beginning 1 July 2007 if the development is located in:
 - (A) An area that is designated as an urbanized area under the most recent federal decennial census.
 - (B) The unincorporated area of a county outside of a municipality designated as an urbanized area under the most recent federal decennial census that extends:
 - (i) One mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals.
 - (ii) Two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals.
 - (iii) Three miles beyond the corporate limits of a

municipality with a population of 25,000 or more individuals.

- (C) An area delineated pursuant to Item (2) of this Paragraph.
- (D) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in Subparagraph (1)(B) of this Paragraph; (iii) the area delineated pursuant to Item (2) of this Paragraph; (iv) the jurisdiction of a regulated entity designated pursuant to Paragraph (c) of this Rule; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to 15A NCAC 02H .0151(b); and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed 75 percent of the total geographic area of the county. For purposes of this subdivision, the stormwater programs administered by the Division are:
 - (i) Water Supply Watershed I (WS-I) – 15A NCAC 02B .0212;
 - (ii) Water Supply Watershed II (WS-II) – 15A NCAC 02B .0214;
 - (iii) Water Supply Watershed III (WS-III) – 15A NCAC 02B .0215;
 - (iv) Water Supply Watershed IV (WS-IV) – 15A NCAC 02B .0216;
 - (v) High Quality Waters (HQW) – Rule .1006 of this Section;
 - (vi) Outstanding Resource Waters (ORW) – Rule .1007 of this Section;
 - (vii) The Coastal Stormwater Program – Rule .1005 of this Section;
 - (viii) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0235;
 - (ix) The Tar-Pamlico River Basin Nutrient Sensitive

- (NSW) Management Strategy – 15A NCAC 02B .0258;
 - (x) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 02B .0251; and
 - (xi) Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 02B .0223.
 - (E) Subject to Subparagraph (4) of this Paragraph, a county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.
- (2) Delineation Process. The Commission shall delineate regulated coverage areas as follows:
 - (A) Schedule: The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).
 - (B) Potential candidate coverage areas. A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to Items (2) and (3) of Paragraph (c) that:
 - (i) Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;
 - (ii) Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and
 - (iii) Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.
 - (C) Identification of candidate coverage areas. The Commission shall identify an area within a potential candidate coverage area described in Subparagraph (2)(B) of this Paragraph as a candidate coverage area if the discharge of stormwater
 - within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.
- (D) Notice and comment on candidacy. The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been identified as candidates for delineation as regulated coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.
- (E) Delineation of regulated coverage areas. After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:
 - (i) Adversely impacts water quality.
 - (ii) Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 02B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of

the waters set out in 15A NCAC 02B .0300, et seq. (Assignment of Stream Classifications).

(F) Notice of delineation. The Commission shall provide written notice to each public entity that is located in whole or in part in a candidate coverage area of its delineation determination. The notice shall state the basis for the determination.

(3) Except as provided in this Item (3) of this Paragraph and Paragraph (d) of this Rule, the Commission shall administer and enforce the standards for development in the regulated coverage areas. To the extent authorized by law, where the development is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Paragraph (d) of this Rule.

(4) A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004 is not a county under Part (1)(E) of this Paragraph and is not a county that is subject under this section to the requirements for development in the unincorporated areas of the county when that actual population growth rate occurred in an area within the county that consists of less than five percent of the total land area of the county.

(b) Development in Non-Phase II Incorporated Areas in Certain Counties. Development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county described in Subparagraphs (2)(D) and (E) of Paragraph (a), that are not designated as an urbanized area under the most recent federal decennial census, shall comply with the standards set forth in Rule .1018 of this Section beginning 1 July 2007. The Commission shall administer and enforce the standards for development unless the public entity requests that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in Paragraph (d) of this Rule.

(c) Designation of Regulated Entities. A public entity that owns or operates a municipal separate storm sewer system (MS4) may be designated as a regulated entity through federal designation, through a State designation process, or under a total maximum daily load (TMDL) implementation plan as provided in this section.

(1) Federal designation. A public entity that owns or operates a municipal separate storm sewer

system (MS4) may be designated as a regulated entity pursuant to 40 Code of Federal Regulations § 122.32 (1 July 2003 Edition).

(2) State designation process. The Commission shall designate a public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated entity as follows:

(A) Designation schedule. The Commission shall implement the designation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).

(B) Identification of candidate regulated entities. The Commission shall identify a public entity as a candidate for designation as a regulated entity if the municipal separate storm sewer system (MS4) either:

(i) Discharges stormwater that has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that causes or contributes to a violation of water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.

(ii) Serves a public entity that has not been designated pursuant to Item (1) of this Paragraph and that has either a population of more than 10,000 or more than 4,000 housing units and either a population density of 1,000 people per square mile or more or more than 400 housing units per square mile.

(C) Notice and comment on candidacy. The Commission shall notify each public entity identified as a candidate for designation as a regulated entity. After notification of each public entity, the Commission shall publish a list of all public entities within a river basin that have been identified as candidates for designation. The Commission shall accept public comment on the proposed designation of a public entity as a regulated entity for a period of not less than 30 days.

- (D) Designation of regulated entities. After review of the public comment, the Commission shall make a determination on designation for each of the candidate public entities. The Commission shall designate a candidate public entity that owns or operates a municipal separate storm sewer system (MS4) as a regulated public entity only if the Commission determines either that:
- (i) The public entity has an actual population growth rate that exceeds 1.3 times the State population growth rate for the previous 10 years.
 - (ii) The public entity has a projected population growth rate that exceeds 1.3 times the projected State population growth rate for the next 10 years.
 - (iii) The public entity has an actual population increase that exceeds 15 percent of its previous population for the previous two years.
 - (iv) The municipal separate storm sewer system (MS4) discharges stormwater that adversely impacts water quality.
 - (v) The municipal separate storm sewer system (MS4) discharges stormwater that results in a significant contribution of pollutants to receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 02B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 02B .0300, et seq.
- (Assignment of Stream Classifications).
- (E) Notice of designation. The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission.
- (F) Application schedule. A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.
- (3) Designation under a total maximum daily load (TMDL) implementation plan. The Commission shall designate an owner or operator of a small municipal separate storm sewer system (MS4) as a regulated entity if the municipal separate storm sewer system (MS4) is specifically listed by name as a source of pollutants for urban stormwater in a total maximum daily load (TMDL) implementation plan developed in accordance with subsections (d) and (e) of 33 U.S.C. § 1313. The Commission shall provide written notice to each public entity of its designation determination. For a public entity designated as a regulated entity, the notice shall state the basis for the designation and the date on which an application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management must be submitted to the Commission. A public entity that has been designated as a regulated entity pursuant to this subdivision must submit its application for a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management within 18 months of the date of notification.
- (d) Delegation. A public entity that does not administer a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management throughout the entirety of its planning jurisdiction and whose planning jurisdiction includes a regulated coverage area under Paragraphs (a) and (b) of this Rule may submit a stormwater management program for its regulated coverage area or a portion of its regulated coverage area to the Commission for approval pursuant to G.S. 143-214.7(c). An ordinance or regulation adopted by a public entity shall at least meet and may exceed the minimum requirements of Rule .1018

of this Section. Two or more public entities are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolution, memorandum of agreement, or other document that establishes any joint program must be duly recorded in the minutes of the governing body of each public entity participating in the program, and a certified copy of each resolution must be filed with the Commission. The Commission shall review each proposed program submitted to it to determine whether the submission is complete. Within 90 days after the receipt of a complete submission, the Commission shall notify the public entity submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of Rule .1018 of this Section. If the Commission determines that any public entity is failing to administer or enforce an approved stormwater management program, it shall notify the public entity in writing and shall specify the deficiencies of administration and enforcement. If the public entity has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the public entity indicates its willingness and ability to resume administration and enforcement of the program.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2011-220; Eff. July 3, 2012; Amended Eff. July 1, 2013.

15A NCAC 07I .0401 PROGRAM COSTS

(a) Costs associated with the management of a local Implementation and Enforcement Program shall be recovered on a per permit basis unless specified elsewhere in this Rule.

(b) The per permit reimbursement rate has been set in consideration of local costs, such as salaries, office supplies, copying, mailing and telephone use, and funds made available to the Division of Coastal Management. These rates are set as follows:

- (1) All county permit-letting authorities are eligible to receive seventy-five dollars (\$75.00) for each processed permit.
- (2) All municipal permit-letting authorities are eligible to receive fifty-five dollars (\$55.00) for each processed permit.
- (3) For multi-unit programs involving a county and a municipality, the higher county rate applies; however, programs involving two or more municipalities shall use the municipal rate.
- (4) Follow-up inspections are required when the permitted activity is completed, and such inspections shall be documented on a form provided by the Division; the follow-up inspection fee received by all local governments is set at forty dollars (\$40.00).

(c) Training costs for Local Permit Officers (LPOs) at the Department of Environment and Natural Resources annual

training session are limited to a maximum two hundred dollars (\$200.00/LPO) for up to three LPOs per local government upon submittal of proper receipts. No funds will be provided for attendance at Coastal Resources Commission meetings.

History Note: Authority G.S. 113A-112; 113A-124; Eff. December 10, 1977; Amended Eff. July 1, 2013; May 1, 1990; October 1, 1982; May 20, 1980; August 1, 1978.

15A NCAC 07I .0406 APPLICATION FEES

The application fees collected by the locality shall be used only to defray the administrative costs associated with the processing of a CAMA minor permit development application. Deficits resulting from administrative costs exceeding amounts received from application fees shall be recovered from permit reimbursements. The application fee shall be consistent with 15A NCAC 07J .0204(b)(6)(B).

History Note: Authority G.S. 113A-112; 113A-119; 113A-124; Eff. December 10, 1977; Amended Eff. July 1, 2013; October 1, 1982; May 20, 1980; August 1, 1978.

15A NCAC 13B .0108 OUT-OF-STATE WASTE IN SANITARY LANDFILLS

History Note: Authority G.S. 130A-294; Temporary Rule Eff. October 1, 1987, For a Period of 180 Days to Expire on March 29, 1988; Eff. February 1, 1988; Repealed Eff. July 1, 2013.

15A NCAC 13B .0206 OPTION TO APPLY FOR ISSUANCE OF 10-YEAR PERMIT FOR SANITARY LANDFILL OR TRANSFER STATION

(a) An applicant for a sanitary landfill or transfer station permit subject to Section .0400, .0500 or .1600 of these Rules may apply for a permit for a design, construction and operation phase of five years or a design, construction and operation phase of ten years. A permit for a ten-year phase of construction and operation of a sanitary landfill shall meet the five-year phase requirements contained in Section .0500 and .1600, applied in two five-year increments.

(b) A permit issued for a designed phase of ten years shall be subject to review within five years of the issuance date, as provided in Rule .0201(g). Permit modifications issued for a ten-year phase of construction or operation of a sanitary landfill or transfer station shall be made in accordance with rules in effect at the time of review and include an updated operations plan for the facility, revisions to the closure and post-closure plans and costs, and updates to the environmental monitoring plans.

History Note: Authority G.S. 130A-294; S.L. 2012-187, s.15.1; Eff. July 1, 2013.

15A NCAC 13B .0504 APPLICATION REQUIREMENTS FOR SANITARY LANDFILLS

A permit for a sanitary landfill shall be based upon a particular stream of identified waste, as set forth in Rule .0504(1)(g)(i) and (ii) of this Section. Any substantial change in the population or area to be served, or in the type, quantity or source of waste shall require a new permit and operation plan, including waste determination procedures where appropriate.

- (1) The following information shall be required for reviewing a site application for a proposed sanitary landfill:

- (a) An aerial photograph on a scale of at least 1 inch equals 400 feet showing the area within one-fourth mile of the proposed site's boundaries with the following specifically identified:
 - (i) Entire property owned or leased by the person proposing the disposal site;
 - (ii) Land use and zoning;
 - (iii) Location of all homes, industrial buildings, public or private utilities, and roads;
 - (iv) Location of wells, watercourses, dry runs, and other applicable details regarding the general topography; and
 - (v) Flood plains.
- (b) A map on a scale of at least 1 inch equals 1000 feet showing the area within two miles of the proposed site's boundaries with the following specifically identified:
 - (i) Known ground water users;
 - (ii) Potential or existing sources of ground water and surface water pollution;
 - (iii) Water intakes;
 - (iv) Airport and runways; and
 - (v) Subdivisions.
- (c) A geological and hydrological study of the site which provides:
 - (i) Soil borings for which the numbers and depths have been confirmed by the Division and lab testing of selected soil samples that provide:
 - (A) standard penetration resistance;
 - (B) particle size analysis;
 - (C) soil classification Unified Soil Classification System;

- (D) geologic considerations (slopes, solution features, etc.);
- (E) undisturbed representative geologic samples of the unconfined or confined or semiconfined hydrological units within a depth of 50 feet that provide the following information for each major lithologic units:
 - (I) saturated hydraulic conductivity (or by in situ);
 - (II) volume percent water; and
 - (III) porosity;
- (F) remolded sample of cover soils that provide:
 - (I) saturated hydraulic conductivity,
 - (II) total porosity,
 - (III) atterberg limits;
- (G) stratigraphic cross sections identifying hydrogeological units including lithology;
- (H) tabulation of water table elevations at time of boring, 24 hours, and seven days (The number of cased borings to provide this information shall be confirmed by the Division.); and
 - (I) boring logs;
- (ii) A boundary plat locating soil borings with accurate horizontal and vertical control which are tied to a permanent onsite bench mark;

- (iii) A potentiometric map of the surficial aquifer based on stabilized water table elevations; and
 - (iv) A report summarizing the geological and hydrological evaluation.
 - (d) A conceptual design plan presenting special engineering features or considerations which must be included or maintained in site construction, operation, maintenance and closure.
 - (e) Local government approvals:
 - (i) If the site is located within an incorporated city or town, or within the extra-territorial jurisdiction of an incorporated city or town, the approval of the governing board of the city or town shall be required. Otherwise, the approval of the Board of Commissioners of the county in which the site is located shall be required. Approval may be in the form of either a resolution or a vote on a motion. A copy of the resolution, or the minutes of the meeting where the vote was taken, shall be forwarded to the Division.
 - (ii) A letter from the unit of government having zoning jurisdiction over the site which states that the proposal meets all of the requirements of the local zoning ordinance, or that the site is not zoned.
 - (f) A discussion of compliance with siting standards in Rule .0503(1) of this Subchapter.
 - (g) A report indicating the following:
 - (i) population and area to be served;
 - (ii) type, quantity and source of waste;
 - (iii) the equipment that will be used for operating the site;
 - (iv) a proposed groundwater monitoring plan including well location and schematics showing proposed screened interval, depth and construction; and
 - (v) a more detailed geologic report may be required depending on specifics of the site. This report may be based on physical evidence, initially, or due to information obtained from the site plan application.
 - (h) Any other information pertinent to the suitability of the proposed site.
- (2) The following information shall be required for reviewing a construction plan application for a proposed sanitary landfill:
- (a) A map showing existing features to include:
 - (i) existing topography of the site on a scale of at least 1 inch equals 200 feet with five foot contours;
 - (ii) bench marks;
 - (iii) springs;
 - (iv) streams;
 - (v) potential ground water monitoring sites;
 - (vi) pertinent geological features; and
 - (vii) soil boring locations.
 - (b) A grading plan that provides:
 - (i) proposed excavated contours;
 - (ii) soil boring locations;
 - (iii) locations and elevations of dikes or trenches;
 - (iv) designated buffer zones;
 - (v) diversion and controlled removal of surface water from the work areas; and
 - (vi) proposed utilities and structures.
 - (c) A construction plan that provides:
 - (i) engineering design for liners, leachate collections systems;
 - (ii) proposed final contours showing removal of surface water runoff; and
 - (iii) locations of slope drains or other drop structures.
 - (d) An erosion control plan that identifies the following:
 - (i) locations of temporary erosion control measures (sediment basins, stone filters, terraces, silt fences, etc.);
 - (ii) locations of permanent erosion control measures (rip rap, energy dissipators, ditch

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| | stabilization, pipe drain, etc.); and | <i>Eff. April 1, 1982;</i> |
| (iii) | seeding specifications and schedules. | <i>Amended Eff. January 1, 1985;</i> |
| (e) | Engineering diagrams showing typical sections of: | <i>Temporary Amendment Eff. October 1, 1987, For a Period of 180 Days to expire on March 29, 1988;</i> |
| | (i) dikes, | <i>Amended Eff. July 1, 2013; February 1, 1991; September 1, 1990; March 1, 1988.</i> |
| | (ii) trenches, | |
| | (iii) diversions, and | |
| | (iv) sediment basins. | |
| (f) | A minimum of two cross sections per operational area showing: | |
| | (i) original elevations, | |
| | (ii) proposed excavated depths, | |
| | (iii) proposed final elevations, | |
| | (iv) ground water elevation, and | |
| | (v) soil borings. | |
| (g) | Site development showing phases or progression of operation in five-year or ten-year phases of construction and operation. | |
| (h) | A written report that contains the following: | |
| | (i) A copy of the deed or other legal description of the landfill site that would be sufficient as a description in an instrument of conveyance and property owner's name; | |
| | (ii) Name of individual responsible for operation and maintenance of the site; | |
| | (iii) Projected use of land after completion of the sanitary landfill; | |
| | (iv) Anticipated lifetime of the project; | |
| | (v) Description of systematic usage of area, operation, orderly development and completion of the sanitary landfill; | |
| | (vi) Earthwork calculations; | |
| | (vii) Seeding specifications and schedules; | |
| | (viii) Calculations for temporary and permanent erosion control measures; | |
| | (ix) Any narrative necessary to describe compliance with the Sedimentation Pollution Control Act of 1973 (15A NCAC 4); | |
| | (x) A discussion of compliance with design requirements in Rule .0503(2) of this Section. | |

15A NCAC 18C .0203 PUBLIC WELL WATER SUPPLIES

(a) Any site or sites for any water supply well to be used as a community or non-transient, non-community water system shall be investigated by an authorized representative of the Division of Water Resources. Approval by the Division is required in addition to any approval or permit issued by any other state agency. The site shall meet the following requirements at the time of approval:

- (1) The well shall be located on a lot so that the area within 100 feet of the well shall be owned or controlled by the person supplying the water. The supplier of water shall be able to protect the well lot from potential sources of pollution and to construct landscape features for drainage and diversion of pollution.
- (2) The minimum horizontal separation between the well and known potential sources of pollution shall be as follows:
 - (A) 100 feet from any sanitary sewage disposal system, sewer, or a sewer pipe unless the sewer is constructed of water main materials and joints, in which case the sewer pipe shall be at least 50 feet from the well;
 - (B) 200 feet from a subsurface sanitary sewage treatment and disposal system designed for 3000 or more gallons of wastewater a day flows, unless it is determined that the well water source utilizes a confined aquifer;
 - (C) 500 feet from a septage disposal site;
 - (D) 100 feet from buildings, mobile homes, permanent structures, animal houses or lots, or cultivated areas to which chemicals are applied;
 - (E) 100 feet from surface water;
 - (F) 100 feet from a chemical or petroleum fuel underground storage tank with secondary containment;
 - (G) 500 feet from a chemical or petroleum fuel underground storage tank without secondary containment;
 - (H) 500 feet from the boundary of a ground water contamination area;
 - (I) 500 feet from a sanitary landfill or non-permitted non-hazardous solid waste disposal site;
 - (J) 1000 feet from a hazardous waste disposal site or in any location which conflicts with the North Carolina

History Note: Authority G.S. 130A 294;

- Hazardous Waste Management Rules cited as 15A NCAC 13A;
- (K) 300 feet from a cemetery or burial ground; and
- (L) 100 feet from any other potential source of pollution.
- (3) The Department may require greater separation distances or impose other protective measures when necessary to protect the well from pollution; the Department shall consider as follows:
- (A) The hazard or health risk associated with the source of pollution;
- (B) The proximity of the potential source to the well;
- (C) The type of material, facility or circumstance that poses the source or potential source of pollution;
- (D) The volume or size of the source or potential source of pollution;
- (E) Hydrogeological features of the site which could affect the movement of contaminants to the source water;
- (F) The effect that well operation might have on the movement of contamination; and
- (G) The feasibility of providing additional separation distances or protective measures.
- (4) The lot shall be graded or sloped so that surface water is diverted away from the wellhead. The lot shall not be subject to flooding.
- (5) When the supplier of water is unable to locate water from any other approved source and when an existing well can no longer provide water that meets the requirements of this Subchapter, a representative of the Division may approve a smaller well lot and reduced separation distances for temporary use.
- (b) The Division of Water Resources may grant a variance from the minimum horizontal separation distances for public water supply wells set out in 15A NCAC 18C .0203(a)(2)(D) and 15A NCAC 18C .0203(a)(2)(E).
- (1) Such variance shall require the following findings:
- (A) The well supplies water to a non-community water system as defined in G.S. 130A-313(10)(b) or supplies water to a business or institution, such as a school, that has become a non-community water system through an increase in the number of people served by the well.
- (B) It is impracticable, taking into consideration feasibility and cost, for the public water system to comply with the minimum horizontal separation distance set out in the applicable sub-subpart of 15A NCAC 18C .0203(a)(2).
- (C) There is no reasonable alternative source of drinking water available to the public water supply system.
- (D) The granting of the variance will not result in an unreasonable risk to public health.
- (2) Such variance shall require that the non-community public water supply well meet the following requirements:
- (A) The well shall comply with the minimum horizontal separation distances set out in 15A NCAC 18C .0203(a)(2)(D) and 15A NCAC 18C .0203(a)(2)(E) to the maximum extent practicable.
- (B) The well shall meet a minimum horizontal separation distance of 25 feet from a building, mobile home, or other permanent structure that is not used primarily to house animals.
- (C) The well shall meet a minimum horizontal separation distance of 100 feet from any animal house or feedlot and from cultivated areas to which chemicals are applied.
- (D) The well shall meet a minimum horizontal separation distance of 50 feet from surface water.
- (E) The well shall comply with all other requirements for public well water supplies set out in 15A NCAC 18C .0203(a).
- History Note: Authority G.S. 130A-315; 130A-318; P.L. 93-523; S.L. 2011-394;*
Eff. January 1, 1977;
Readopted Eff. December 5, 1977;
Amended Eff. July 1, 1994; September 1, 1990; September 1, 1979;
Amended Eff. Pending Legislative Review.
- 21 NCAC 52 .0211 MILITARY LICENSE**
- (a) Restricted Temporary License: The Board shall grant restricted temporary license privileges to podiatrists practicing in a clinical residency solely on federal military installations within North Carolina, provided they meet the following conditions. Applications for restricted temporary license shall require the same education as for a permanent license, current participation in a one-year clinical residency and successful completion of Parts I and II of the National Boards. The Board shall not assess a license examination nor application fee. Restricted temporary licenses shall be granted for a maximum of one-year, renewable annually so long as the podiatrist continues to practice within the clinical residency on the federal military installation.
- (b) Permanent Unrestricted License Military Podiatrist: The Board shall issue a permanent license to a military-trained applicant to allow the applicant to lawfully practice podiatry in

North Carolina if, upon application to the Board, the applicant satisfies the following conditions:

- (1) Has been awarded a military occupational specialty in podiatry and has done all of the following at a level that is substantially equivalent to or exceeds the requirements for licensure in North Carolina: completed a military program of podiatry training and completed testing or equivalent training and experience, and performed in the occupational specialty;
- (2) Has engaged in the practice of podiatry for at least two of the five years (which may include clinical residency) preceding the date of the application under this Paragraph;
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice podiatry in this State at the time the act was committed; and
- (4) Pays the application, examination, and licensing fees required by the Board.

(c) **Permanent Unrestricted License-Podiatrist Spouse of Military Personnel:** The Board shall issue to a military spouse a license to practice podiatry in this State if, upon application to the board, the military spouse satisfies the following conditions:

- (1) Holds a current license, certification, or registration from another jurisdiction, and that jurisdiction's requirements for licensure, certification, or registration are substantially equivalent to or exceed the requirements for licensure in this State;

- (2) Can demonstrate competency in the occupation through passing the North Carolina examination;
- (3) Has not committed any act in any jurisdiction that would have constituted grounds for refusal, suspension, or revocation of a license to practice that occupation in this State at the time the act was committed;
- (4) Is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit; and
- (5) Pays the application, examination, and licensing fees required by the Board.

(d) All relevant podiatric medical experience of a military service member in the discharge of official duties or, for a military spouse, all relevant podiatric medical experience, including full-time and part-time experience, regardless of whether in a paid or volunteer capacity, shall be credited in the calculation of years of practice in an occupation as required under Paragraphs (b) and (c) of this Rule.

(e) A nonresident licensed under this Rule shall be entitled to the same rights and subject to the same obligations as required of a resident licensed by the Board in this State.

History Note: Authority G.S. 90-202.5(b); 90-202.6; 93B-15.1; Army Regulation 40-68; Eff. April 1, 2005; Amended Eff. July 1, 2013.

This Section contains information for the meeting of the Rules Review Commission on June 19, 2013 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS**Appointed by Senate**

Addison Bell
Margaret Currin
Pete Osborne
Bob Rippy
Faylene Whitaker

Appointed by House

Ralph A. Walker
Anna Baird Choi
Jeanette Doran
Garth K. Dunklin
Stephanie Simpson

COMMISSION COUNSEL

Joe Deluca (919)431-3081
Amanda Reeder (919)431-3079

RULES REVIEW COMMISSION MEETING DATES

August 15, 2013 September 19, 2013
October 17, 2013 November 21, 2013

AGENDA**RULES REVIEW COMMISSION**

Thursday, August 15, 2013 10:00 A.M.

1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
- II. Approval of the minutes from the last meeting
- III. Follow-Up Matters:
 - A. Private Protective Services Board – 12 NCAC 07D .0104, .0115, .0203, .0301, .0302, .0401, .0501, .0601, .0807, .0901, .0909 (Reeder)
 - B. Board of Barber Examiners – 21 NCAC 06A .0103, .0301, .0303 (DeLuca)
 - C. Board of Barber Examiners – 21 NCAC 06C .0907 (DeLuca)
 - D. Board of Barber Examiners – 21 NCAC 06F .0101, .0116 (DeLuca)
 - E. Board of Barber Examiners – 21 NCAC 06H .0101 (DeLuca)
 - F. Board of Barber Examiners – 21 NCAC 06I .0105 (DeLuca)
 - G. Board of Barber Examiners – 21 NCAC 06J .0101 (DeLuca)
 - H. Board of Barber Examiners – 21 NCAC 06K .0104 (DeLuca)
 - I. Board of Barber Examiners – 21 NCAC 06L .0103, .0114, .0118, .0119 (DeLuca)
 - J. Board of Barber Examiners – 21 NCAC 06M .0101, .0102 (DeLuca)
 - K. Board of Barber Examiners – 21 NCAC 06N .0104, .0105, .0108, .0109, .0112 (DeLuca)
 - L. Board of Barber Examiners – 21 NCAC 06Q .0101, .0103 (DeLuca)
 - M. Board of Barber Examiners – 21 NCAC 06S .0101 (DeLuca)
 - N. Board of Dental Examiners – 21 NCAC 16A .0104 (Reeder)

- O. Board of Dental Examiners – 21 NCAC 16B .0101, .0317, .1001, .1002 (Reeder)
 - P. Board of Dental Examiners – 21 NCAC 16C .0101, .0301 (Reeder)
 - Q. Board of Dental Examiners – 21 NCAC 16G .0107, .0108 (Reeder)
 - R. Board of Dental Examiners – 21 NCAC 16M .0101 (Reeder)
 - S. Hearing Aid Dealers and Fitters Board – 21 NCAC 22F .0120, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209 (Reeder)
 - IV. Review of Log of Filings (Permanent Rules) for rules filed between June 21, 2013 and July 22, 2013
 - V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days of the RRC Meeting
 - VI. G.S. 150B-19.1 Certification
 - VII. Commission Business
 - Next meeting: September 19, 2013
-

**Commission Review
Log of Permanent Rule Filings
June 21, 2013 through July 22, 2013**

HOME INSPECTOR LICENSURE BOARD

The rules in Chapter 8 are the engineering and building codes including the approval of school maintenance electricians (.0400); qualification board-limited certificate (.0500); qualification board-probationary certificate (.0600); qualification board-standard certificate (.0700); disciplinary actions and other contested matters (.0800); manufactured housing board (.0900); NC Home Inspector Licensure Board (.1000); home inspector standards of practice and code of ethics (.1100); disciplinary actions (.1200); home inspector continuing education (.1300); Manufactured Housing Board continuing education (.1400); and alternate designs and construction appeals (.1500).

Electrical
Amend/*

11 NCAC 08 .1110

ENVIRONMENTAL MANAGEMENT COMMISSION

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).

Prevention of Significant Deterioration
Amend/*

15A NCAC 02D .0530

Sources In Nonattainment Areas
Amend/*

15A NCAC 02D .0531

COASTAL RESOURCES COMMISSION

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters

(.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); boat ramps along estuarine shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

General Use Standards for Ocean Hazard Areas
Amend/*

15A NCAC 07H .0306

Technical Standards for Beach Fill Projects
Amend/*

15A NCAC 07H .0312

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

Beaufort County
Amend/*

15A NCAC 10F .0303

Perquimans County
Amend/*

15A NCAC 10F .0355

HEARING AID DEALERS AND FITTERS BOARD

The rules in Subchapter 22A concern the organization of the board (.0100-.0200); definitions (.0300-.0400); fees and applications (.0500).

Definitions and Interpretations
Repeal/*

21 NCAC 22A .0301

License
Repeal/*

21 NCAC 22A .0303

Registered Apprentice
Repeal/*

21 NCAC 22A .0307

Registered Applicant
Repeal/*

21 NCAC 22A .0308

Duly Made Applicant
Repeal/*

21 NCAC 22A .0309

One Full Year of Apprenticeship
Repeal/*

21 NCAC 22A .0310

Direct Supervision
Repeal/*

21 NCAC 22A .0311

Audiometer
Repeal/*

21 NCAC 22A .0312

Definitions and Interpretations

21 NCAC 22A .0401

Adopt/*				
<u>Fee Schedule</u>	21	NCAC	22A	.0501
Amend/*				
<u>Submission of Applications and Fees</u>	21	NCAC	22A	.0503
Amend/*				

The rules in Subchapter 22F concern general examination and license provisions.

<u>Communication of Results of Examinations</u>	21	NCAC	22F	.0107
Amend/*				

The rules in Subchapter 22K concern forms.

<u>Designation</u>	21	NCAC	22K	.0101
Repeal/*				
<u>Applicant for License</u>	21	NCAC	22K	.0102
Repeal/*				
<u>Application for Apprentice Registration Certification</u>	21	NCAC	22K	.0103
Repeal/*				
<u>Application for License Renewal</u>	21	NCAC	22K	.0104
Repeal/*				
<u>Access to Forms</u>	21	NCAC	22K	.0105
Repeal/*				

BUILDING CODE COUNCIL

<u>2012 NC Fire Code/Dimensions Fire apparatus access</u>	503.2.1
Amend/*	
<u>2012 NC Mechanical Code/Duct construction</u>	603.4
Amend/*	
<u>2012 NC Plumbing Code/Water Closets, urinals, lavatories ...</u>	405.3.1
Amend/*	

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 431-3000. Also, the Contested Case Decisions are available on the Internet at <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

Chief Administrative Law Judge
JULIAN MANN, III

Senior Administrative Law Judge
FRED G. MORRISON JR.

ADMINISTRATIVE LAW JUDGES

Beecher R. Gray
Selina Brooks
Melissa Owens Lassiter
Don Overby

Randall May
A. B. Elkins II
Joe Webster

<u>AGENCY</u>	<u>CASE NUMBER</u>	<u>DATE</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
<u>ALCOHOLIC BEVERAGE CONTROL COMMISSION</u>			
James Ivery Smith, Ivy Lee Armstrong v. ABC Commission	11 ABC 08266	04/12/12	
Trawick Enterprises LLC v. ABC Commission	11 ABC 08901	05/11/12	27:01 NCR 39
Dawson Street Mini Mart Lovell Glover v. ABC Commission	11 ABC 12597	05/23/12	
ABC Commission v. Christian Broome Hunt T/A Ricky's Sports Bar and Grill	11 ABC 13161	05/03/12	
Alabarati Brothers, LLC T/A Day N Nite Food Mart, v. ABC Commission	11 ABC 13545	05/01/12	
Playground LLC, T/A Playground v. ABC Commission	11 ABC 14031	05/16/12	27:01 NCR 64
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	11 ABC 14036	07/05/12	
ABC Commission v. D's Drive Thru Inc. T/A D's Drive Thru	12 ABC 00060	05/29/12	
ABC Commission v. Choudhary, LLC T/A Speedway	12 ABC 00721	05/01/12	
ABC Commission v. Dos Perros Restaurant LLC T/A Dos Perros Restaurant	12 ABC 05312	09/25/12	
ABC Commission v. Bobby Warren Joyner T/A Hillsdale Club	12 ABC 06153	11/06/12	
ABC Commission v. Quick Quality, Inc., T/A Rock Star Grill and Bar	12 ABC 07260	12/11/12	
ABC Commission v. Fat Cats Grill and Oyster Bar Inc, T/A Fat Cats Grill and Oyster Bar	12 ABC 08988	12/19/12	
ABC Commission v. Wachdi Khamis Awad T/A Brothers in the Hood	12 ABC 09188	03/06/13	
ABC Commission v. Double Zero, LLC, T/A Bad Dog	12 ABC 11398	04/08/13	
ABC Commission v. Soledad Lopez de Avilez T/A Tienda Avilez	13 ABC 00002	06/06/13	
<u>DEPARTMENT OF CRIME CONTROL AND PUBLIC SAFETY</u>			
Maggie Yvonne Graham v. Victims Compensation Commission	09 CPS 05287	04/09/13	
Brian J. Johnson v. Department of Public Safety Victim Services	12 CPS 01664	12/21/12	
George H. Jagers, III v. Crime Victims Compensation Commission	12 CPS 01693	11/01/12	
Teresa Herbin v. Department of Public Safety Victim Services	12 CPS 03680	08/10/12	
Jacqueline M Davis victim-Antonio T Davis v. Dept. of Public Safety	12 CPS 05919	11/06/12	
Demario J. Livingston v. Dept. of Public Safety Victim Services	12 CPS 06245	10/19/12	
Shirley Ann Robinson v. N.C. Crime Victims Compensation Commission	12 CPS 07601	12/07/12	
Harold Eugene Merritt v. State Highway Patrol	12 CPS 07852	05/24/13	
Vanda Lawanda Johnson v. Office of Victim Compensation	12 CPS 09709	04/25/13	
Latoya Nicole Ritter v. Crime Victim Compensation Commission, Janice Carmichael	12 CPS 10572	04/25/13	
Teresa f. Williams v. Crime Victims Compensation Commission	13 CPS 09790	07/11/13	

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CONTESTED CASE DECISIONS

Stonesthrow Group Home Medicaid Provider #6603018 Owned by Alberta Professional Services Inc v. DHHS, Division of Mental Health/Development Disabilities/ Substance Abuse, and DMA	09 DHR 05790	01/11/13	
Bright Haven Residential and Community Care d/b/a New Directions Group Home v. Division of Medical Assistance, DHHS	10 DHR 00232	04/27/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home, v. DHHS/Division of Health Service Regulation, Adult Care Licensure Section	10 DHR 01666	05/18/12	
Warren W Gold, Gold Care Inc. d/b/a Hill Forest Rest Home v. DHHS, Division of Health Service Regulation, Adult Care Licensure and Certification Section	10 DHR 05801	05/18/12	
Gold Care Inc. Licensee Hill Forest Rest Home Warren W. Gold v. DHHS, Adult Care Licensure Section	10 DHR 05861	05/18/12	
Robert T. Wilson v. DHHS, DHSR	10 DHR 07700	01/29/13	
Daniel J. Harrison v. DHHS Division of Health Service Regulation	10 DHR 07883	04/12/13	28:02 NCR 73
Mary Ann Barnes v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 6488	07/16/12	
Comprehensive PT Center v. DHHS, Division of Medical Assistance	11 DHR 9197	08/14/12	27:12 NCR 1204
Cherry's Group Home, Alphonso Cherry v. DHSR Michelle Elliot	11 DHR 09590	07/12/12	
Leslie Taylor v. DHHS, Division of Health Regulation	11 DHR 10404	10/19/12	
Powell's Medical Facility and Eddie N. Powell, M.D., v. DHHS, Division of Medical Assistance	11 DHR 01451	03/05/12	27:01 NCR 75
Julie Sadowski v. DHHS, Division of Health Service Regulation	11 DHR 01955	04/03/12	
Carlos Kendrick Hamilton v. DHHS, Division of Social Services	11 DHR 11161	10/16/12	27:16 NCR 1679
Teresa Diane Marsh v. DHHS, Division of Health Service Regulation	11 DHR 11456	04/27/12	
Betty Parks v. Division of Child Development, DHHS	11 DHR 11738	06/20/12	
Lorrie Ann Varner v. DHHS, Regulation Health Care Personnel Registry Section	11 DHR 11867	08/02/12	
Brenda Brewer v. DHHS, Division of Child Development	11 DHR 12064	08/03/12	27:12 NCR 1210
Timothy John Murray v. DHHS, Division of Health Service Regulation	11 DHR 12594	06/15/12	
Holly Springs Hospital II, LLC v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Harnett Health System, Inc. and WakeMed	11 DHR 12727	04/12/12	27:04 NCR 486
Rex Hospital, Inc., v. DHHS, Division of Health Service Regulation, CON Section and WakeMed, Holly Springs Hospital II, LLC, and Harnett Health System, Inc.	11 DHR 12794	04/12/12	27:04 NCR 486
Harnett Health System, Inc., v. DHHS, Division of Health Service Regulation, CON Section and Rex Hospital, Inc., Holly Springs Hospital II, LLC, and WakeMed	11 DHR 12795	04/12/12	27:04 NCR 486
WakeMed v. DHHS, Division of Health Service Regulation, CON Section and Holly Springs Hospital II, LLC, Rex Hospital, Inc., and Harnett Health System, Inc	11 DHR 12796	04/12/12	27:04 NCR 486
Sandra Ellis v. DHHS	11 DHR 12959	07/11/12	
Shirley Dowdy v. DHHS	11 DHR 13267	03/25/13	
Vendell Haughton v. DHHS, Division of Medical Assistance	11 DHR 13616	07/05/12	
Tarsand Denise Morrison v. DHHS, Division of Health Service Regulation	11 DHR 13906	07/11/12	
Care Well of Charlotte Inc, Joy Steele v. DHHS	11 DHR 13909	08/02/12	
Carrie's Loving Hands Inc. #MHL #040-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification	11 DHR 14172	01/22/13	
Carrie's Loving Hands Inc. #MHL #010-047 Felicia McGee v. DHHS, DHSR, Mental Health Licensure and Certification	11 DHR 14173	01/22/03	
Michael Timothy Smith, Jr. v. DHHS, Division of Health Service Regulation	11 DHR 14184	08/01/12	
John S. Won v. DHHS	11 DHR 14232	09/05/12	27:15 NCR 1547
Cynthia Tuck Champion v. DHHS, Division of Health Service Regulation	11 DHR 14283	06/15/12	
Leslie Taylor, and Octavia Carlton v. Mecklenburg County Department of Social Services Youth and Family Services Division	11 DHR 14335	10/12/12	
Lauren Stewart v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	11 DHR 14570	06/08/12	
Alice M. Oakley v. Division of Child Development, DHHS	11 DHR 14571	05/15/12	27:04 NCR 508
Andrea D. Pritchett v. DHHS Healthcare Personnel Registry Section	11 DHR 14885	01/04/13	28:02 NCR 91
McWilliams Center for Counseling Inc., v. DHHS, Division of Mental Health, Developmental Disabilities, Substance Abuse Services, and agency of the State of NC	11 DHR 15098	11/13/12	
Althea L. Flythe v. Durham County Health Department	12 DHR 00242	05/17/12	
Jerri Long v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00361	07/06/12	
Renal Advantage, Inc., v. DHHS, Division of Health Service Regulation, CON Section and DVA Healthcare Renal Care, Inc	12 DHR 00518	08/28/12	27:15 NCR 1553
Angela Moya v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 00642	08/23/12	27:12 NCR 1218

CONTESTED CASE DECISIONS

Jessica Lynn Ward v. DHHS	12 DHR 00643	05/17/12	
Trinity Child Care II & I v. DHHS, Division of Public Health, Child and Adult Care Food Program	12 DHR 00861	04/20/12	27:04 NCR 518
Dr. Karen J. Williams, LPC v. DHHS, Division of Medical Assistance	12 DHR 00926	09/18/12	
Faith Home Care of NC, Bonita Wright v. DHHS, DMA	12 DHR 00928	07/25/12	
Olar Underwood v. Division of Child Development and Early Education	12 DHR 00990	10/22/12	
Angela C Jackson v. DHHS	12 DHR 01097	06/19/12	
Paula N Umstead v. DHHS	12 DHR 01098	05/11/12	
Daniel W. Harris, Jr., v. DHHS, Division of Health Service Regulation	12 DHR 01138	10/19/12	
ACI Support Specialists Inc. Case #2009-4249 v. DHHS	12 DHR 01141	06/06/12	
AriLand Healthcare Service, LLC, NCMHL #018-092, Shawn Kuhl Director of Operations v. DHHS, Emery E. Milliken, General Counsel	12 DHR 01165	05/25/12	
Kenneth Holman v. DHHS	12 DHR 01244	06/05/12	
Hillcrest Resthome Inc. (\$2000 penalty) v. DHHS	12 DHR 01289	05/30/12	
Hillcrest Resthome Inc. (\$4000 penalty) v. DHHS	12 DHR 01290	05/30/12	
Vivian Barrear v. DHHS, Division of Medical Assistance DHHS	12 DHR 01296	06/06/12	
Patricia Satterwhite v. DHHS	12 DHR 01338	07/23/12	
Anthony Moore d/b/a Hearts of Gold II v. DHHS, Division of Health Service Regulation, Adult Care Licensure Section	12 DHR 01346	04/12/13	28:03 NCR 256
Timothy L Durham v. DHHS, Division of Health Services Regulation	12 DHR 01396	09/04/12	
Clydette Dickens v. Nash Co DSS	12 DHR 01625	05/15/12	
American Mobility LLC, Norman Mazer v. DHHS	12 DHR 01733	11/20/12	27:21 NCR 1980
American Mobility LLC, Norman Mazer v. DHHS	12 DHR 01733	03/6/13	28:03 NCR 266
Robert Lee Raines v. DHHS	12 DHR 01736	05/30/12	
Ms. Antoinette L. Williams v. DHHS	12 DHR 01739	06/15/12	
Felicia McGee Owner of Carrie's Loving Hand Inc. and Caring Arms Inc v. DHHS, DHSR Mental Health Licensure Certification	12 DHR 01796	01/22/13	
Tricia Watkins v. DHHS, Division of Medical Assistance, Office of Medicaid TLW-Auditing Office	12 DHR 01807	06/01/12	
First Path Home Care Services Gregory Locklear v. DHHS	12 DHR 01878	06/22/12	
Patriotic Health Care Systems, LLC v. DHHS	12 DHR 02105	09/19/12	
John and Christina Shipman v. DHHS	12 DHR 02107	07/24/12	
Team Daniel, LLC v. DHHS, DMA	12 DHR 02162	09/11/13	27:16 NCR 1696
Leslie Taylor, Octavia Carlton, Paula Carlton	12 DHR 02217	08/31/12	
Madeline Brown v. DHHS, Division of Health Service Regulation	12 DHR 02257	06/01/12	
Evelyn Evans v. DHHS, Division of Health Service Regulation	12 DHR 02258	07/02/12	
Shannon Santimore v. DHHS, Division of Public Health, Epidemiology Section	12 DHR 02348	12/20/12	
Precious Haven Inc. Melissa McAllister v. DHHS, Program Integrity	12 DHR 02430	05/18/12	
Michael and Jamie Hart v. Davidson County, Department of Social Services	12 DHR 02542	07/03/12	
Annamae R. Smith v. DHHS, Division of Medical Assistance	12 DHR 02657	11/05/12	
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 02777	10/17/12	
Right Trax Inc., Maria Lewis v. DHHS, Division of Health Service Regulation, Mental Health Licensure & Certification	12 DHR 02779	05/06/13	
Jessica L Thomas v. Randolph County DSS	12 DHR 02955	07/24/12	
Moses E Shoffner v. DHHS, Division of Child Development	12 DHR 03459	08/15/12	
Marco Evans v. DHHS, Division of Health Service Regulation	12 DHR 04110	07/30/12	
James C. Bartley v. DHHS, DMA	12 DHR 04116	07/25/12	
Estate of Mary P Lipe Medicaid ID #901463645S Alvena C Heggins v. DHHS, DMS (DHHS Medicaid)	12 DHR 04260	01/16/13	
Emelda Bih Che v. Health Care Personnel Registry	12 DHR 04834	01/24/13	
Daycare for all the Nations, Abura B. Jackson v. DHHS, Division of Child Development	12 DHR 04944	01/03/13	28:03 NCR 275
LaBrenda Jane Elliot v. DHHS, Division of Medical Assistance	12 DHR 04993	09/24/12	
Esther H Beal v. Office of Chief Medical Examiner	12 DHR 05094	11/14/12	27:21 NCR 1987
James Johnson v. DHHS, Division of Health Service Regulation	12 DHR 05148	09/11/12	
Youth Opportunities v. DHHS, Division of Medical Assistance	12 DHR 05227	07/11/13	
Tammy Isley v. Division of Child Development and Early Education	12 DHR 05405	05/15/13	
Cathy Crosland v. DHHS, Division of Health Service Regulation	12 DHR 05610	08/06/12	
Brenda Triplett Andrews v. DHHS, Division of Health Service Regulation	12 DHR 05745	12/10/12	
Southern Living Home Care Agency Inc., v. DHHS	12 DHR 05864	11/06/12	
Beverly Coleman v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 05961	09/05/12	
Dwight William Osborne v. Glana M Surles, DHHS (Medicaid)	12 DHR 05693	09/14/12	
Gregory Howard v. Health Care Personnel Registry	12 DHR 06157	09/07/12	
Joshua Goss v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry	12 DHR 06158	03/04/13	

CONTESTED CASE DECISIONS

Harrison E Shell Jr v. Wake County Human Services	12 DHR 06203	08/28/12	
A Unique Solution Bertha M. Darden v. Division of Child Development & Early Education	12 DHR 06314	05/20/13	
Valtina Bronson v. DHHS, Division of Health Service Regulation	12 DHR 06365	08/29/12	
Danny Skipper AKA Danny Skipper v. DHHS, Division of Health Services Regulation	12 DHR 06403	10/22/12	
Stalin Bailon v. Department of Social Services	12 DHR 06528	10/17/12	
Tonya Diane Warfield v. DHHS, Division of Health Service Regulation, Health Care Personnel Registry Section	12 DHR 06682	01/07/13	
Our Daily Living, Christopher OnWuka, Director v. DHHS	12 DHR 06683	10/17/12	
Latricia N. Yelton, OT v. DHHS, Division of Medical Assistance	12 DHR 06686	04/10/13	28:03 NCR 282
Brittney Nicole Brabham v. DHHS, Division Health Service Regulation, Healthcare Personnel Registry	12 DHR 06786	03/27/13	
Darina Renee Ford v. DHHS	12 DHR 07166	11/19/12	
Marquis Gerade Harrell v. DHHS, Health Care Personnel Registry, Leslie Chabet	12 DHR 07170	10/23/12	
KMG Holdings Inc. – The Lighthouse II of Clayton MHL #051-138 v. DHHS, Division of Health Licensure and Certification	12 DHR 07292	11/08/12	
Curtain Climbers, Rhonda Corn v. Division of Child Development, DHHS	12 DHR 07295	01/16/13	
Denise Marie Shear v. DHHS, Division of Health Service Regulation	12 DHR 07547	11/07/12	
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Tracy A. Spaine (Currier) v. UNC Hospitals	12 UNC 06822	11/06/12

WILDLIFE RESOURCES COMMISSION

People for the Ethical Treatment of Animals, Inc., v. NC Wildlife Resources Commission	12 WRC 07077	11/13/12	27:22 NCR 2165
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FILED

STATE OF NORTH CAROLINA

COUNTY OF GUILFORD

IN THE OFFICE OF

ADMINISTRATIVE HEARINGS

12 DHR 01346

OFFICE OF

ANTHONY MOORE
d/b/a HEARTS OF GOLD II

Petitioner

v.

DEPARTMENT OF HEALTH AND HUMAN
SERVICES, DIVISION OF HEALTH SERVICE
REGULATION ADULT CARE LICENSURE
SECTION,

Respondent.

FINAL DECISION

THIS MATTER came on for hearing before the undersigned The Honorable Selina M. Brooks, Administrative Law Judge, on January 16, 2013 in High Point, North Carolina.

APPEARANCES

For Petitioner: Kenneth M. Johnson, Esq.
PO Box 21247
Greensboro, NC 27420

For Respondent: Joseph E. Elder
Assistant Attorney General
North Carolina Department of Justice
P. O. Box 629
Raleigh, NC 27602-0629

ISSUE

Whether Respondent deprived Petitioner of property, otherwise substantially prejudiced Petitioner's rights, exceeded its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously or failed to act as required by law or rule when Respondent assessed an administrative penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00) for a Type A rule violation against Hearts of Gold II.

APPLICABLE STATUTES AND RULES

N.C. Gen. Stat. § 131D, Article 2
10A N.C.A.C. 13G.0901

RESPONDENT'S WITNESSES

1. Robert Cauthren, Adult Home Specialist with the Alamance County Department of Social Services.
2. Marie Rodgers, Branch Manager with the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section.
3. Barbara Ryan, Chief of the North Carolina Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section.

PETITIONER'S WITNESSES

1. Anthony Moore, owner and administrator of Hearts of Gold I and Hearts of Gold II family care homes.
2. Denise Moore, supervisor in charge of Hearts of Gold I.

EXHIBITS

The Parties stipulated to the authenticity and admission of the following Exhibits which were accepted into evidence in this matter.

- Exhibit 1 - February 14, 2012 Penalty Letter
- Exhibit 2 - Penalty Packet
- Exhibit 3 - Accident/Incident Report dated 2/28/11
- Exhibit 4 - Accident/Incident Report dated 12/21/10
- Exhibit 5 - Death Certificate
- Exhibit 6 - Statement of Susie Moore
- Exhibit 7 - Statement of Denise Moore
- Exhibit 8 - Statement of Nikill Fuller
- Exhibit 9 - Statement of Henry Vines
- Exhibit 10 - Statement of Janet Woody
- Exhibit 11 - Statement of Tinsey Rone
- Exhibit 12 - 911 Transcript
- Exhibit 13 - Death Report
- Exhibit 14 - Alamance Regional Medical Records for Resident #3

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing and the entire record in this proceeding, the Undersigned makes the following findings of fact. In making the findings of fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including but not limited to the demeanor of the witness, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. From the sworn testimony of witnesses, the undersigned makes the following:

FINDINGS OF FACT

1. The Adult Care Licensure Section of the Division of Health Service Regulation ("Agency" or "DHSR") inspects and licenses adult care facilities including family care homes licensed to house 6 or fewer residents and all other adult care homes in North Carolina.
2. The Agency conducts surveys of all adult care homes annually, and conducts complaint investigations, follow-up surveys, and death investigations at adult care homes as needed.
3. Routine monitoring, surveys and complaint investigations are done in conjunction with county departments of social services, and DHSR has oversight of county monitoring. The Alamance County Department of Social Services, through its adult home specialists, conducts oversight activity of adult care homes located in Alamance County.
4. At all times relevant to this matter, Respondent licensed Anthony Moore to operate a family care home known as Hearts of Gold II, license number FCL-001-124, located at 207 Friendly Rd., Burlington, North Carolina. Mr. Moore was the administrator of Hearts of Gold II.
5. By letter dated February 14, 2012, Respondent assessed an administrative penalty against Petitioner for a Type A violation of 10A N.C.A.C. 13G.0901 for failing to provide supervision adequate to meet the needs of a resident based on the resident's condition and symptoms. The assessed amount was Eight Thousand Five Hundred Dollars (\$8,500.00). Included with the penalty assessment was a penalty recommendation sheet and penalty matrix completed by Ms. Rodgers. Resp. Ex. 1
6. The assessed penalty was based on a penalty proposal prepared by Mr. Cauthren, including the investigative findings he prepared in a Corrective Action Report ("CAR"). This CAR and the penalty proposal were provided to Mr. Moore prior to the penalty being assessed. Resp. Ex. 2

7. At all times relevant to this case, Mr. Cauthren was an adult home specialist with the Alamance County Department of Social Services. Mr. Cauthren has been an adult home specialist in Alamance County for over fourteen years.

8. As part of his duties as an adult home specialist, Mr. Cauthren conducts monitoring of adult care homes to ensure a home's compliance with licensure rules and when necessary conducts complaint and death investigations.

9. Complaint investigations are conducted when a complaint is received from community members, DHSR, or as a result of information provided by staff or residents of a monitored home.

10. During a complaint investigation, Mr. Cauthren gathers information to determine if a home is in compliance with applicable rules. If the home is not in compliance, he documents the noncompliance in a Corrective Action Report ("CAR"). The CAR is a formatted report listing the administrative rule cited for violation, and the findings supporting the rule violation cited.

11. After he completes a CAR, Mr. Cauthren forwards the report to DHSR for review by the Quality Improvement Committee ("QIC"). The QIC committee may edit the CAR or make recommendation for changes if necessary. After edits, the CAR is returned to the adult home specialist with any comments, edits or recommendations.

12. At all times relevant to this case, Marie Rodgers was a Branch Manager with the Department of Health and Human Services, Division of Health Service Regulation, Adult Care Licensure Section. Ms. Rodgers has served as Branch Manager since 2008 and prior to that worked as a surveyor conducting investigations and inspections of adult care homes.

13. As Branch Manager, Ms. Rodgers oversees surveyors who conduct annual surveys and various kinds of investigations for DHSR. She also participates in the QIC review process and prepares penalty recommendations for consideration by the Penalty Review Committee. Her penalty recommendations are based on penalty proposals received from county Departments of Social Services as well as DHSR staff, including information submitted by a provider against whom a penalty is being considered. Ms. Rodgers considers specific criteria in determining a recommended monetary penalty amount based on her review.

14. At all times relevant to this matter, Barbara Ryan was the chief of the Adult Care Licensure Section of the Division of Health Service Regulation. Ms. Ryan has served as chief for eight years.

15. As chief, Ms. Ryan manages and oversees the Adult Care Licensure Section operations and enforces the law and rules applicable to adult care homes in North Carolina. Ms. Ryan is responsible for taking any necessary administrative actions that are permitted by law and supported by information gathered from facility surveys and investigations. Ms. Ryan is

responsible for assessing administrative penalties based on information provided through the penalty process.

16. At all times relevant to this case, Mr. Cauthren was assigned to monitor Hearts of Gold II. He had been assigned to monitor this home since 2008. Anthony Moore was the home administrator.

17. Mr. Cauthren also monitored a facility known as Hearts of Gold I which at all times relevant to this matter was located across the street from Hearts of Gold II. Mr. Moore had been the administrator of Hearts of Gold I for three or four years.

18. While conducting a complaint investigation on February 28, 2011 at Hearts of Gold II, Mr. Cauthren inquired about resident J.H. whom Mr. Cauthren had previously seen in the home. Mr. Cauthren was informed by Mr. Moore that J.H. had passed away. Upon inquiry, Mr. Moore provided the circumstances surrounding J.H.'s death including that J.H. had choked. Mr. Cauthren advised Mr. Moore to file a death report with DHHS. The death report was submitted on or about March 16, 2011.

19. During his investigation, Mr. Cauthren learned of another choking incident involving J.H. which occurred on December 2010.

20. On December 21, 2010, J.H. was eating lunch and choked on a cookie. The Heimlich maneuver was performed on J.H. and the food was dislodged. When EMS responded J.H. was sitting up and talking.

21. As a result of the December 21, 2010 incident involving J.H., changes were made as to how staff would supervise him while he ate. Staff identified that J.H. would eat too fast or overstuff his mouth if not monitored. Supervision changes included monitoring J.H. while he ate, instructing him to slow down if he was eating too fast, sitting with him or staying close beside him to instruct him to slow down or to move his plate while he finished what was in his mouth.

22. On February 26, 2011, J.H. was eating lunch with other residents. J.H. was seated at the end of the table with his back toward the opening between the living room and the dining room. J.H. began to choke and another resident alerted Mr. Moore.

23. Mr. Moore was in the living room and facing into the living room tending to another resident with his back to J.H. He heard other residents say that J.H. was choking. Mr. Moore called 911 and Cardiopulmonary Resuscitation ("CPR") was performed on J.H. until emergency responders arrived.

24. Ms. Denise Moore came over to Hearts of Gold II from the Hearts of Gold I facility across the street to assist Mr. Moore. She relieved Mr. Moore of performing CPR and took over for him while he remained on the line with the emergency dispatcher. According to

the transcript of the 911 call Mr. Moore made, he was pulling bologna and cookies out of J.H. mouth and made remarks about removing a lot of food from J.H.'s mouth. Resp. Ex. 12

25. J.H. was transported to Alamance Regional Medical Center where he was pronounced dead. The cause of death was listed as "Respiratory Failure." Resp. Ex. 13

26. Mr. Cauthren consulted with Marie Rodgers of DHSR about his findings and determination that Hearts of Gold II had committed a Type A violation for failing to provide appropriate supervision to J.H. while he ate according to his current symptoms and based on the requirements the facility had identified for monitoring J.H. during meals.

27. Ms. Rodgers confirmed that the findings supported a Type A level violation.

28. Mr. Cauthren submitted his CAR to the DHSR Quality Improvement Committee ("QIC") for review. Other than minor changes, the Type A violation in the CAR was found to be supported. Resp. Ex. 2

29. Mr. Cauthren informed Mr. Moore that he could submit additional information for consideration, including any comments about information he believed to be inaccurate in the CAR. Mr. Moore submitted information, including statements from family members of other residents of Hearts of Gold II. Resp. Exs. 8 7 9

30. These statements revealed that staff members of both Hearts of Gold homes were aware of J.H.'s needs and would pull up a chair and sit beside him and give J.H. one piece of food at a time to eat. According to the statements, J.H. would not take time to chew his food and would stuff his mouth unless staff sat with him and helped feed him. J.H. was repeatedly told to not put too much in his mouth and was constantly monitored so he would not overfill his mouth.

31. The additional information provided by Mr. Moore was submitted in the penalty proposal to DHSR.

32. Ms. Rodgers reviewed the penalty proposal sent by Mr. Cauthren, including the information provided by Mr. Moore. She applied the statutory factors applicable to determining the amount of an administrative penalty for a Type A rule violation. The determinations made by Ms. Rodgers in applying each factor were included in a penalty recommendation sheet and a penalty matrix which she prepared. The penalty recommendation and penalty matrix were based on her review of the findings in the penalty proposal.

33. Prior to assessment of the penalty, the penalty proposal and recommendation were forwarded for consideration by the Penalty Review Committee (the "PRC"). The PRC is an advisory body appointed by the Secretary of the Department of Health and Human Services which reviews proposed penalties and makes a recommendation as to whether a penalty should be assessed and in what amount. The PRC does not have any binding authority over whether the Adult Care Licensure Section assesses a penalty.

34. Mr. Moore attended and participated in the PRC meeting held on February 9, 2012. The PRC recommended no penalty be assessed.

35. The PRC recommendation was not accepted by Ms. Ryan and she decided, based on the findings from the investigation and the information in the penalty proposal and penalty recommendation, that a Type A violation of 10A N.C.A.C. 13G.0901 was supported. Ms. Ryan assessed an administrative penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00). Resp. Ex. 1

CONCLUSIONS OF LAW

Based upon the foregoing Findings of Fact, the undersigned Administrative Law Judge makes the following Conclusions of Law:

1. The North Carolina Office of Administrative Hearings has jurisdiction over the parties and subject matter of this contested case under N.C. Gen. Stat. 150B-23. There is no question as to misjoinder or nonjoinder. The parties received proper notice of the hearing in this matter.
2. Petitioner has the burden of proving that Respondent deprived Petitioner of property, otherwise substantially prejudiced Petitioner's rights, exceeded its authority or jurisdiction, acted erroneously, failed to use proper procedure, acted arbitrarily or capriciously or failed to act as required by law or rule when Respondent assessed an administrative penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00) for a Type A rule violation against Hearts of Gold II.
3. N.C. Gen. Stat. § 131D-2 *et seq.* authorizes Respondent to regulate and monitor adult care homes in the State of North Carolina. Pursuant to N.C. Gen. Stat. § 131D-34, Respondent is authorized to assess administrative penalties against adult care homes for violations of relevant federal and State laws, rules, and regulations of adult care homes.
4. At the time the violation at issue in this matter was cited, N.C. Gen. Stat. § 131D-34 defined a Type A level violation as any violation of law or rules applicable to adult care homes that resulted in death or serious physical harm to a resident or a substantial risk that death or serious physical harm would occur.
5. Adult care homes are required by administrative rule to provide adequate supervision to its residents according to the residents assessed needs as set forth in 10A N.C.A.C. 13G.0901. This includes providing supervision based on the changing needs of the resident and presenting symptoms.
6. Staff of Hearts of Gold II identified that based on the current symptoms of resident J.H., he required additional supervision while eating, including monitoring him while he

ate, standing or sitting beside him while he ate, cutting his food up into small pieces, instructing him to slow down when starting to eat too fast, and removing his plate from him when eating too fast. This was based on a choking incident involving J.H. that occurred on December 21, 2010 during which staff had to perform the Heimlich maneuver on J.H. to dislodge a cookie he had shoved in his mouth.

7. Hearts of Gold II failed to provide the necessary supervision required to meet the needs of J.H. based on his symptoms related to eating too fast and stuffing his mouth. This failure occurred on February 26, 2011 when Mr. Moore left the dining area while J.H. was eating. Mr. Moore was in the living room with his back to J.H. tending to another resident. J.H. stuffed his mouth and choked resulting in his death. Hearts of Gold II failed to provide adequate supervision of J.H. as previously identified as being necessary based on his eating habits.

8. Hearts of Gold II provided additional information for consideration by Respondent during the penalty process and this information was duly considered.

9. Respondent's citation of a Type A violation of 10A N.C.A.C. 13G.0901 is supported by a preponderance of the evidence. Respondent did not act erroneously, did not fail to act as required by rule or law, did not fail to follow proper procedure, did not act arbitrarily or capriciously when citing the Type A violation.

10. A Type A violation requires the assessment of an administrative penalty. Respondent did not exceed its authority or jurisdiction, did not act erroneously, did not fail to act as required by rule or law, did not fail to follow proper procedure, did not act arbitrarily or capriciously when assessing an administrative penalty against Petitioner in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00) and this penalty amount was reasonable.

DECISION

NOW THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, the undersigned Administrative Law Judge determines that Respondent did not exceed its authority or jurisdiction, did not act erroneously, did not fail to act as required by rule or law, did not fail to follow proper procedure, did not act arbitrarily or capriciously when citing the Type A violation and assessing an administrative penalty in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00) against Petitioner. The penalty is payable as set forth in N.C. Gen. Stat. § 131D-34.

NOTICE

Under the provisions of North Carolina General Statute 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity

with the Office of Administrative Hearings' rule, 26 N.C.A.C. 03.0102, and the North Carolina Rules of Civil Procedure, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 12th day of April, 2013.



Selina M. Brooks
Administrative Law Judge

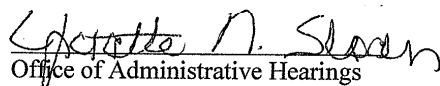
CERTIFICATE OF SERVICE

The foregoing was sent to:

Kenneth M. Johnson, Esq.
PO Box 21247
Greensboro, NC 27420
Attorney for Petitioner

Joseph E. Elder
Assistant Attorney General
North Carolina Department of Justice
P. O. Box 629
Raleigh, NC 27602-0629
Attorney for Respondent

The 27th day of April, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh, NC 27699-6714
Tel.: (919) 431-3000
Fax: (919) 431-3100

Filed

STATE OF NORTH CAROLINA

2013 MAR -6 PM 4: 22

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DHR 01733

COUNTY OF WAKE

Office of
Administrative Hearings

AMERICAN MOBILITY LLC,
NORMAN MAZER,
Petitioner,

v.

N.C. DEPARTMENT of HEALTH
and HUMAN SERVICES,
Respondent.

ORDER AMENDING
DECISION to
FINAL DECISION

THIS MATTER came on to be heard before the undersigned Administrative Law Judge on July 26, 2012 in Raleigh, North Carolina. Petitioner filed proposals with the Clerk of the Office of Administrative Hearings on August 21, 2012. Respondent filed proposals with the Clerk of the Office of Administrative Hearings on Friday, September 7, 2012 and the record was received by the Undersigned and closed on Monday, September 10, 2012. By Order of the Chief Administrative Law Judge the time in which to file a decision in this case was extended to November 30, 2012.

The Decision in this case was issued by the Undersigned and mailed to the parties on November 20, 2012. The Notice given to the parties stated that in, "cases filed at the Office of Administrative Hearings (OAH) on or after January 1, 2012, the OAH issues a final decision appealable to North Carolina Superior Court with some exceptions. Pending approval by federal authorities of a State Plan Amendment waiving the single state agency requirement under the federal Medicaid program, the final decision in this case is presently issued by the North Carolina Department of Health and Human Services."

By letter dated December 27, 2012 from the Associate Regional Administrator, Division of Medicaid & Children's Health Operations, Centers for Medicare and Medicaid Services, to the North Carolina Division of Medical Assistance, the U.S. Department of Health & Human Services approved "the Medicaid State Plan Amendment NC 12-007." Further, the "SPA was approved on December 27, 2012," with an "effective date of this amendment [being] July 1, 2012."

By letter dated February 8, 2013 from the North Carolina Department of Health and Human Services to the Office of Administrative Hearings (OAH) this above cited case was "being returned for OAH to reissue its decision as a Final Agency Decision in light of the passing of NC SPA 12-007 with an effective date of July 01 2012."

PURSUANT to the North Carolina Title XIX Medicaid State Plan Amendment, the Decision rendered in this Contested Case Hearing is a **FINAL DECISION**.

IT IS HEREBY ORDERED that the Notice set forth in the November 20, 2012 Decision in this matter is deleted in its entirety and replaced as follows:

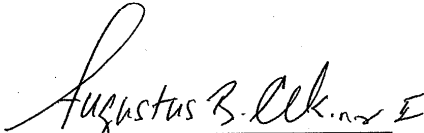
NOTICE

THIS IS A FINAL DECISION issued under the authority of N.C. GEN. STAT. § 150B-34. Under the provisions of North Carolina General Statutes Chapter 150B, Article 4, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision. In conformity with the Office of Administrative Hearings' Rule, 26 N.C. Admin. Code 03.012, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision. N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

IN ALL OTHER REGARDS, the Decision in the above-cited case remains the same. A revised copy of the Decision is attached with the corrections made pursuant to this Order with the same date as set forth in this Order.

IT IS SO ORDERED.

This the 25th day of February, 2013.


Augustus B. Elkins II
Administrative Law Judge

On this date mailed to:

American Mobility LLC
Norman Mazer
2851 Van Huron Drive
Suite 103
Raleigh, NC 27615-
Petitioner

Brenda Eaddy
N.C. Department Of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
Attorney - Respondent

This the 6th day of March, 2013.



N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
919 431 3000
Facsimile: 919 431 3100

STATE OF NORTH CAROLINA
COUNTY OF WAKE

Filed
2013 MAR -6 PM 4:23

**IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12 DHR 01733**

AMERICAN MOBILITY LLC,
NORMAN MAZER,
Petitioner,

v.

N.C. DEPARTMENT of HEALTH
and HUMAN SERVICES,
Respondent.

Office of
Administrative Hearings

FINAL DECISION

THIS MATTER came on to be heard before the undersigned Administrative Law Judge on July 26, 2012 in Raleigh, North Carolina, with the final day of hearing concluding the presentation of witnesses and admission of exhibits. The record was left open for the parties' submission of further materials, including but not limited to supporting briefs, memorandums of law and proposals. Petitioner filed proposals with the Clerk of the Office of Administrative Hearings on August 21, 2012. Respondent filed proposals with the Clerk of the Office of Administrative Hearings (OAH) on Friday, September 7, 2012 and the record was received by and closed on Monday, September 10, 2012. By Order of the Chief Administrative Law Judge the time in which to file a decision in this case was extended to November 30, 2012.

APPEARANCES

For Petitioner: Norman Mazer, *pro se*
2851 Van Huron Drive, Suite 103
Raleigh, North Carolina 27615

For Respondent: Brenda Eaddy
Assistant Attorney General
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001

ISSUE

Whether the requested recoupment by Respondent of \$13,644.54 in alleged Medicaid overpayments to the Petitioner is proper, lawful and without error?

WITNESSES

For Petitioners: Norman Mazer, Petitioner

For Respondent: Nicole Gates, Department of Health and Human Services

EXHIBITS

For Petitioners: Exhibits 1 through 3 and 5 through 7 were admitted.

For Respondent: Exhibits A through H were admitted.

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents, and exhibits received and admitted into evidence, and the entire record in this proceeding, the undersigned Administrative Law Judge makes the following Findings of Fact. In making these Findings of Fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including, but not limited to the demeanor of the witnesses, any interests, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable and whether the testimony is consistent with all other believable evidence in the case.

FINDINGS OF FACT

1. Petitioner is a Durable Medical Equipment (DME) supplier. Petitioner filed a Petition for a Contested Case Hearing to appeal the decision of the North Carolina Department of Health and Human Services, Division of Medical Assistance (DMA) on March 19, 2012. Petitioner contests an amount of \$13,644.54 which Respondent contends is a Medicaid overpayment due back to Respondent.

2. Respondent alleges Petitioner supplied a wheelchair to a Medicaid beneficiary without obtaining a physician prescription. Nicole Gates, a Nurse Consultant with the Division of Medical Assistance, reviewed this matter in preparation of this hearing at the Office of Administrative Hearings (OAH) and asserted that Medicaid DME wheelchair providers must obtain a physician prescription for a wheelchair as a first step to supplying the chair to the beneficiary.

3. Petitioner, American Mobility, received a signed and dated Certificate of Medical Necessity and Prior Approval Form signed by a "Provider/Board Certified Practitioner" on February 3, 2011 and a "Physician, Physician Assistant, Nurse Practitioner" on February 10, 2011 for the Medicaid patient. (Res. Ex. C) Petitioner did not receive a prescription from an ordering

physician since the Medicaid patient called American Mobility directly. Petitioner did have the signed *Certificate of Medical Necessity and Prior Approval Form for Durable Medical Equipment and Prosthetic Devices*, as well as other documentation before ordering and supplying the Durable Medical Equipment listed on the Certificate of Medical Necessity to the beneficiary on or about March 22, 2011.

4. On or about June 1, 2011, the wheelchair recipient telephoned a complaint about receiving a wheelchair she did not order. The evidence shows that this was done after she had surgery and needed a Bi-Pap machine and that "Medicaid denied her the Bi-Pap machine because of the wheelchair." (Res. Ex. A) It appears the complaint was resolved with no penalty to the Petitioner and is not an issue in this case.

5. In accordance with the February 13, 2012 Notice of Decision regarding the Reconsideration Review held by the Respondent, a witness for DMA, Ms. Lukosius, stated that "the medical necessity of the equipment for Recipient J. [was] not at issue." The issue and findings according to the Notice of Decision was that Petitioner failed to obtain a prescription. (Res. Ex. H)

6. Attachment C, How a Recipient Obtains Durable Medical Equipment and Supplies, of Respondent's Clinical Coverage Policy No. 5A sets forth the steps on "how a recipient receives DME and related supplies." It goes on to state that the "steps are in the order that they are usually accomplished." Ms. Lukosius stated at the Reconsideration Review that the "DMA interprets this to mean that obtaining the physician's prescription is a different step; required in addition to the step 2, involving the completion of the Certificate of Medical Necessity/Prior Approval (CMN/PA)." She went on to state that "DMA interprets the word *usually* as referencing the order in which the required steps are accomplished." (Res. Ex. H)

7. Petitioner had provided the recipient with a power chair in 2006 and her conditioned had worsened since that time. Petitioner testified that American Mobility tries to help clients obtain services they need. Mr. Mazer stated that to do that in this case he accepted a self referral, and then the proper Certificate of Medical Necessity and Prior Approval Form was completed and submitted to the recipient's physician and appropriate prior approval was received.

8. Ms. Gates testified that a reason for the prescription was for the physician to list on it the type of power wheelchair and all its accessories needed so that the provider would deliver to the patient exactly what the physician ordered and assists Respondent in maintaining the accuracy of its records.

9. Petitioner stated that in his years of experience, physicians rarely list on the prescription the details of a wheelchair. Petitioner attached to his proposal copies of prescriptions which were taken from some of the files that we were audited by Dionne Manning and Robin Wilkins from DMA/Program Integrity Dept. on April 12, 2011 in support of his assertion.

BASED UPON the foregoing findings of fact and upon the preponderance or greater weight of the evidence in the whole record, the Undersigned makes the following:

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has personal and subject matter jurisdiction over this contested case. To the extent that the findings of fact contain conclusions of law, or that the conclusions of law are findings of fact, they should be so considered without regard to the given labels.
2. Respondent's Clinical Coverage Policy No. 5A broadly sets out "Requirements for and Limitations on Coverage" regarding durable medical equipment. Section 5.1 states that a "referral authorization must be obtained from the primary care physician before providing DME ... to a Carolina ACCESS participant." Section 5.1 goes on to state that the "referral authorization is required in addition to other requirements for the service, such as prior approval."
3. Attachment C , How a Recipient Obtains Durable Medical Equipment and Supplies, of Respondent's Clinical Coverage Policy No. 5A sets forth the steps on "how a recipient receives DME and related supplies." It goes on to state that the "steps are in the order that they are usually accomplished."
4. In accordance with 42. U.S.C. § 1396a, State plans for medical assistance, and particularly § 1396a (a)(17), the federal law mandates that a state's plan must include "reasonable standards . . . [[to] the extent of medical assistance" in accordance with the purpose of the Medicaid statute. Moreover pursuant to 42 U.S.C. § 1396a(a)(19), the state must furnish "safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients."
5. The federal Medicaid program has the broad primary objective to furnish medical assistance to individuals whose income and resources are insufficient to meet the costs of medically necessary services and equipment.
6. The Petitioner in this case obtained the proper Certificate of Medical Necessity and Prior Approval Form signed by a "Provider/Board Certified Practitioner" on February 3, 2011 and a "Physician, Physician Assistant, Nurse Practitioner" on February 10, 2011 which was prior to the recipient receiving a wheelchair. The Respondent has stated that the medical necessity of the wheelchair is not an issue.
7. Though not receiving a prescription, Petitioner did have prior referral authorization as set forth and evidenced in the title of Respondent's own form. Though the usual order of obtaining the referenced wheelchair would normally perhaps involve a prescription, in light of the language of the federal law and even Respondent's own policy, it is not an absolute

requirement, as Petitioner did have the required prior approval by a physician, physician assistant and/or nurse practitioner. This conclusion particularly fulfills the federal mandates of "simplicity of administration and the best interests of the recipients" in light of the fact that the recipient had previously received a wheelchair from the Petitioner and she and/or her agent initiated the request for the current wheelchair which she owns and operates.

BASED UPON the foregoing Findings of Fact and Conclusions of Law the Undersigned makes the following:

DECISION

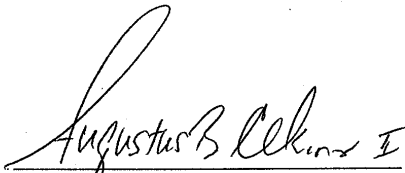
The Undersigned finds and holds that there is sufficient evidence in the record to properly and lawfully support the Conclusions of Law cited above. Based on those conclusions and the facts in this case, the Undersigned holds that Petitioner has properly complied with the purposes and letter of both federal and State law. The Undersigned holds that the Petitioner has carried its burden of proof by a greater weight of the evidence that recoupment by Respondent would be erroneous, arbitrary or capricious, and not in accordance with applicable law.

NOTICE

THIS IS A FINAL DECISION issued under the authority of N.C. GEN. STAT. § 150B-34. Under the provisions of North Carolina General Statutes Chapter 150B, Article 4, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision. In conformity with the Office of Administrative Hearings' Rule, 26 N.C. Admin. Code 03.012, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision. N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

IT IS SO ORDERED.

This the 25th day of February, 2013.

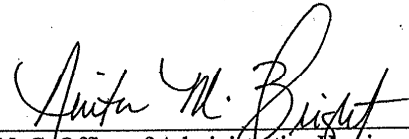

 Augustus B. Elkins II
 Administrative Law Judge

On this date mailed to:

American Mobility LLC
Norman Mazer
2851 Van Huron Drive
Suite 103
Raleigh, NC 27615-
Petitioner

Brenda Eaddy
N.C. Department Of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
Attorney - Respondent

This the 6th day of March, 2013.



N. C. Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
919 431 3000
Facsimile: 919 431 3100

Filed

STATE OF NORTH CAROLINA

2013 JAN -3 PM 3:07

IN THE OFFICE OF

ADMINISTRATIVE HEARINGS

COUNTY OF DURHAM

12DHR04944

Office of
Administrative Hearings

Daycare for all the Nations,
Abura B. Jackson,

Petitioner,

v.

North Carolina Division of Health and Human
Services, Division of Child Development,

Respondent.

FINAL DECISION

BACKGROUND

This matter was heard before Beecher R. Gray, Administrative Law Judge, on November 2, 2012 in Raleigh, North Carolina.

APPEARANCES

Abura B. Jackson
919 Berkeley Street
Durham, NC 27705
PETITIONER

Letitia C. Echols
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602
ATTORNEY FOR RESPONDENT

APPLICABLE STATUTES AND RULES

N.C.G.S. §§ 110-85, 110-90, 110-90.2, 110-91 and Child Care Rules 10A NCAC 09 .1701 and .2207.

ISSUES

Whether Respondent otherwise substantially prejudiced Petitioner's rights and acted erroneously when it summarily suspended Abura B. Jackson's license to operate Daycare for All the Nations.

EXHIBITS ADMITTED INTO EVIDENCE

Respondent's Exhibits ("R. Exs.") 1-12, 14, 15, and 18. Official notice was taken of the relevant statutes and rules contained in Respondent's Exhibit ("R. Ex") 16.

FINDINGS OF FACT

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents, exhibits received and admitted into evidence, and the entire record in this proceeding, the undersigned Administrative Law Judge ("ALJ") makes the following Findings of Fact. In making these Findings of Fact, the ALJ has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including, but not limited, to the demeanor of witnesses; any interests, bias, or prejudice the witness may have; the opportunity of the witness to see, hear, know, or remember the facts or occurrences about which the witness testified; whether the testimony of the witness is reasonable; and whether the testimony is consistent with all other believable evidence in the case.

Parties/Witnesses

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing and each stipulated on the record that notice was proper.
2. Respondent, Division of Child Development and Early Education¹ (the "Division" or "DCDEE"), is an administrative agency of North Carolina State Government operating under the laws of North Carolina and administering the licensing program for child care facilities in the State of North Carolina. *See* N.C.G.S. § 110-85, et seq.
3. Under N.C.G.S. § 110-85, the Division has a mandate to ensure that children in child care facilities are in physically safe and healthy environments where the developmental needs of the children are met.
4. Child care is highly regulated in North Carolina.
5. Sheronda Harris is an investigations consultant for the Division and has worked with the Division for nine (9) years. Consultant Harris previously worked at Guilford County Child Protective Services. Consultant Harris earned a Bachelor of Science degree in Social Work from The University of North Carolina at Greensboro. Consultant Harris' responsibilities as an investigations consultant for the Division include investigation of complaints arising at child care centers involving abuse, neglect, or serious violations of child care rules.

¹ In July of 2011, the Division of Child Development became "The Division of Child Development and Early Education."

6. Deanna Hoxworth is an investigations program manager for the Division. Program Manager Hoxworth has worked with the Division for eleven (11) years. Program Manager Hoxworth previously worked at a child abuse prevention center in the capacities of investigator and case manager. Program Manager Hoxworth holds a Bachelor of Arts degree in Family and Child Development from The University of North Carolina at Charlotte. Program Manager Hoxworth's responsibilities as an investigations program manager for the Division include managing three (3) supervisors, each of whom supervises a team of four (4) investigators.

7. Sherrie Koonce is a criminal records check supervisor for the Division. Supervisor Koonce has worked with the Division for five and one half (5 ½) years. She worked as a child care center director before coming to work at the Division. Supervisor Koonce holds an Associate of Arts degree in Information Systems. Her responsibilities as a criminal records check supervisor for the Division include supervising a Criminal Record Check team of three (3) who process about fifty thousand (50,000) criminal background checks per year. The team reviews the criminal backgrounds of applicants for employment at the Department of Health and Human Services ("DHHS"), Emergency Management Service ("EMS"), long term care facilities, and prospective foster parents and adoptive parents across the state.

8. Investigator Kristy Roberts has worked as an investigator for the domestic violence unit of the Durham Police Department for two and one half (2½) years. Investigator Roberts has worked for the Durham Police Department for a total of thirteen (13) years. Investigator Roberts attended criminal justice school for two (2) years and earned multiple certifications in various methods of investigation and criminology. Investigator Roberts' responsibilities in the domestic violence unit include following up patrol officer calls concerning domestic violence between intimate partners. In her capacity as investigator, she contacts the alleged victim, asks questions, and provides the alleged victim with information on support for domestic violence victims in their community.

9. Petitioner Abura Jackson is the licensed operator of "Daycare for All the Nations," a Family Child Care Home. (R. Ex. 2) Petitioner operated Daycare for All the Nations out of her home located at 919 Berkley Street in Durham, North Carolina. Petitioner's facility was permitted to operate on all three shifts, caring for no more than eight (8) children from age zero (0) to twelve (12) at a time, of which no more than five (5) preschool children and two (2) infants under age one at any time were permitted. *Id.*

10. Petitioner operated Daycare for All the Nations under a four-star license issued by the Division on September 12, 2011. *Id.*

Violations of Child Care Requirements

11. On May 14, 2012, the Division received a report that there had been two incidents of domestic violence between Petitioner and her new husband, Joseph Toler, within a month and that children were present during one of the incidents. (R. Ex. 1)

12. On May 15, 2012, Consultant Sheronda Harris visited Daycare for All the Nations to investigate the May 14, 2012 complaint and deliver an Order summarily suspending Petitioner's license to operate Daycare for All the Nations because one of the incidents of domestic violence resulted in both Petitioner and her husband being arrested and charged with criminal assault (R. Ex. 14, 15) and disqualified from providing child care under N.C.G.S. § 110-90.2. (R. Ex. 11) Respondent determined that Petitioner's facility at that point was not a safe and healthy environment for children and the conditions at the family child care home represented imminent threat of harm to children under 10A NCAC 09 .1719. (R. Ex. 5)
13. Petitioner filed her Petition for a Contested Case Hearing in the Office of Administrative Hearings on May 23, 2012, contesting the summary suspension of her license.
14. During a July 27, 2012 follow up visit to Petitioners' facility, Petitioner told Consultant Harris that she last saw Joseph Toler at a neighbor's home. After Petitioner's granddaughter stated that Joseph Toler stayed at Petitioner's home the night before, however, Petitioner admitted that he had spent the night there. (R. Ex. 4, 8)
15. Consultant Harris learned later that on July 24, 2012, Joseph Toler had been arrested and charged with assault on a female (R. Ex. 4, 10) for punching Petitioner about the face several times with a closed fist, pulling her hair, grabbing Petitioner by her arms, and throwing her onto a chair. (R. Ex. 10)
16. Investigator Roberts testified that upon interviewing Petitioner, she was concerned for Petitioner's safety because of the increase in the severity of attacks by Joseph Toler, the fact that the July 24, 2012 attack was not provoked, and that Petitioner had not reported all the incidents of abuse to law enforcement.
17. Although Investigator Roberts encouraged Petitioner to file a Complaint & Motion for a Domestic Violence Protective Order ("DVPO") pursuant to N.C.G.S. § 50B-1 et seq., Investigator Roberts did not find any filing in Durham County for a DVPO by Petitioner as of November 1, 2012. Investigator Roberts did find an active DVPO entered on Joseph Toler's behalf against Petitioner, however. (R. Ex. 18)

Statutory Authority

18. The Division has a mandate to protect children in child care by ensuring that children are kept in physically safe and healthy environments where their developmental needs are met and where they are "cared for by qualified persons of good moral character." N.C.G.S. § 110-85 (2012)
19. The Division has authority to summarily suspend a license to operate child care where it determines that a facility does not provide a safe and healthy environment or where conditions represent imminent danger of harm to children. 10A N.C.A.C. 09 .2207 and .1719

20. Individuals who are disqualified from providing child care based on their criminal record under N.C.G.S. §110-90.2 may not own, operate, be employed by, work in, provide transportation for a child care facility, or be present when children are in care. N.C.G.S. §110-90.2 (2012)
21. At all times relevant to this matter, Petitioner's facility operated under a license issued by Respondent.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the parties and the subject matter of this contested case under Chapters 110 and 150B of the North Carolina General Statutes.
2. All parties correctly have been designated and there is no question as to misjoinder or nonjoinder and the notice of hearing was proper.
3. At all times relevant to this matter, Petitioner's facility was subject to the child care licensure laws and rules of the State of North Carolina.
4. Respondent acted properly when it summarily suspended Petitioner's child care license because it determined that emergency action was necessary to protect the health, safety, and welfare of the children enrolled at Daycare for All the Nations. 10A NCAC 09.2207; See N.C.G.S. § 110-90(9) 2012.
5. Respondent did not otherwise substantially prejudice Petitioner's rights.
6. Respondent did not act erroneously.

Based upon the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

FINAL DECISION

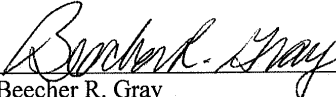
The Respondent's decision to summarily suspend Petitioner's four star child care license is supported by a preponderance of the evidence and is **AFFIRMED**.

NOTICE

Under the provisions of North Carolina General Statute 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being**

served with a written copy of the Administrative Law Judge's Final Decision. In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.012, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 03 day of January, 2013.




Beecher R. Gray
Administrative Law Judge

On this date mailed to:

Daycare for all the Nations
Abura B Jackson
919 Berkeley Street
Durham, NC 27705-
Petitioner

Letitia C. Echols
NC Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
Attorney - Respondent

This the 4th day of January, 2013.



Office of Administrative Hearings
6714 Mail Service Center
Raleigh NC 27699-6714
Telephone: 919/431-3000
Fax: 919/431-3100

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

FILED

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12-DHR-6686

2013 APR 10 AM 12:44

LATRICIA N. YELTON, OT,

Petitioner,

OFFICE OF
ADMIN HEARINGS

vs.

FINAL DECISION

N.C. DEPT. OF HEALTH & HUMAN
SERVICES, DIVISION OF MEDICAL
ASSISTANCE,

Respondent.

This contested case was heard before Selina M. Brooks, Administrative Law Judge, on January 11, 2013, in Asheville, North Carolina.

APPEARANCES

For Petitioner: Curtis B. Venable, Attorney at Law
OTT CONE & REDPATH, P.A.
P.O. Box 3016
Asheville, NC 28802

For Respondent: Michael T. Wood, Assistant Attorney General
N.C. Department of Justice
Post Office Box 629
Raleigh, NC 27602-0629

PROTECTIVE ORDER

At the call of this contested for hearing, the Parties submitted a Joint Motion For Protective Order and, upon consent, a Qualified Protective Order was entered and **the entire record herein placed under seal.**

ISSUE

Whether the Department of Health and Human Services (DHHS) Hearing Officer correctly decided to uphold the decision of the Division of Medical Assistance (DMA) to review occupational therapy services provided to Medicaid recipients by Petitioner Yelton, and that Yelton received an overpayment of \$20,334.00 as the result of the allegedly improperly documented 30 claims for occupational therapy services delivered to Medicaid recipients.

JURISDICTION

As stipulated by the parties: This matter is in the appropriate forum and venue. The matter was filed in a timely and appropriate fashion. All parties necessary are joined.

BURDEN OF PROOF

Respondent bears the burden of proof in this matter, pursuant to N.C. Gen. Stat. §108C-12(d).

DOCUMENTARY EVIDENCE

As stipulated by the parties as to authenticity and admissibility: The parties agreed to the authenticity and the admissibility of the following:

For Respondent:

1. DMA Clinical Coverage Policy 10A (effective December 1, 2009)
2. DMA December 2010 Medicaid Bulletin
3. Basic Medicaid Billing Guide, Sept 2009, excerpts
4. CCME Audit tool
5. CPT codes
6. Medicaid Provider Agreement
7. First Request for Medical Records, 2/1/2012
8. Rat-Stats input dated 4/20/2012
9. Rat-Stats output dated 4/20/2012
10. Tentative Notice of Overpayment, 4/26/2012
11. CCME Response to Telephone Appeal, 6/8/2012
12. Rat-Stats input dated 6/26/2012
13. Rat-Stats output dated 6/26/2012
14. CCME Response to In-Person Appeal, 6/29/12
15. Notice of Decision, 6/28/12
16. Diagram prepared by Dr. Feaganes to illustrate statistical concepts (demonstrative)
17. Summary chart for claims out-of-compliance
18. All medical records submitted to CCME by Petitioner for this audit (binders).

For Petitioner:

None.

WITNESSES**For Respondent:**

RoseAnn Sparano, OT, Carolinas Center for Medical Excellence ("CCME")

For Petitioner:

Latricia Yelton, OT

Expert Witnesses:

The Undersigned determined that RoseAnn Sparano, OT, CCME possessed the scientific, technical or other specialized knowledge to assist the trier of fact to understand the evidence or to determine a fact in issue and by virtue of the knowledge, skill, experience, training or education of Ms. Sparano, and she was accepted by the Undersigned as an expert in the area of occupational-language pathology pursuant to Rule 702 of the North Carolina Rules of Evidence.

The Undersigned determined that that Latricia Yelton, OT, possessed the scientific, technical or other specialized knowledge to assist the trier of fact to understand the evidence or to determine a fact in issue and by virtue of the knowledge, skill, experience, training or education of Ms. Yelton, and she was accepted by the Undersigned as an expert in the area of pediatric occupational therapy pursuant to Rule 702 of the North Carolina Rules of Evidence. She also has additional specialized training and certification in swallowing.

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, and the entire record in this proceeding, the Undersigned makes the following findings of fact. In making the findings of fact, the Undersigned has weighed all the evidence and has assessed the credibility of the witnesses by taking into account the appropriate factors for judging credibility, including but not limited to the demeanor of the witness, any interest, bias, or prejudice the witness may have, the opportunity of the witness to see, hear, know or remember the facts or occurrences about which the witness testified, whether the testimony of the witness is reasonable, and whether the testimony is consistent with all other believable evidence in the case. Wherefore, the Undersigned makes the following Findings of Fact, Conclusions of Law and Final Decision.

FINDINGS OF FACT

1. Petitioner does not dispute the following findings of an overpayment from the Hearing Officer's decision for the following patients, dates of services, units of service and amount:

Patient's		Date Service	of Unit Service	of Amount
<u>Last Name</u>	<u>First Name</u>			
A	H	03/22/11	1	\$63.69
A	H	03/22/11	1	\$49.18
L	W	06/21/11	1	\$24.59
T	E	07/21/11	1	\$24.59

2. Respondent conducted a review of Petitioner's Medicaid Occupational Therapy services claims with dates of service between March 1, 2011 and August 31, 2011 by reviewing 100 records.

3. During the period reviewed, Petitioner had billed 1,343 events to Respondent with a total amount paid by Respondent to Petitioner of \$99,864.52.

4. Respondent informed Petitioner by a document entitled "Tentative Notice of Overpayment" ("TNO") dated April 26, 2012 of its initial determination that 33 out of 100 claims "lacked service documentation per policy". (Resp. Ex. 10)

5. The value of the allegedly erroneous 33 records totaled \$2,019.14. (Resp. Exs. 9 & 10).

6. Respondent extrapolated the alleged errors to Petitioner's total amount received (\$99,864.52) and alleged a total overpayment of \$20,937.00. (Resp. Exs. 9 & 10).

7. Petitioner requested that Respondent conduct an informal reconsideration review of the original tentative overpayment.

8. Respondent's informal reconsideration review upheld the original findings by determining that 33 records were in error and "the recoupment amount of \$20,334.00 based on CCME's corrected extrapolation amount." (Resp. Ex. 15).

9. In providing Occupational Therapy services, Petitioner documented the certain planned activities between the patient and the provider of clinical service by producing a Plan of Care for each patient.

10. In providing Occupational Therapy services, Petitioner documented certain activities between the patient and the provider of clinical service by producing a handwritten daily service note for each patient's date of service.

11. Respondent's findings of Petitioner's alleged errors arose from a review of Petitioner's Plans of Care for each patient in light of requirements set forth in DMA Clinical Coverage Policy 10A (effective Dec. 1, 2009), Sec. 5.1. (Resp. 1)

12. Respondent's findings of Petitioner's alleged errors additionally arose from a review of Petitioner's handwritten daily service notes for each patient's dates of service in light of requirements set forth in DMA Clinical Coverage Policy 10A (effective Dec. 1, 2009), Sec. 7.1.

13. Respondent found that in specific instances that Petitioner's documentation of Plans of Care failed to "include defined goals" and/or "include a specific content" for the treatment of swallowing dysfunction and/or oral function for feeding. *See* DMA Clinical Coverage Policy 10A, Sec. 5.1(c) and (d).

14. Petitioner produced Plans of Care to address patients' tactile sensitivity difficulties, including oral motor sensitivity.

15. Certain of Petitioner's documentation of activities between the patient and the provider of clinical services recorded the provider working with the child to do a variety of activities, including, *inter alia*, by cuing to suck apple sauce through a straw to assist the patient with quality and strength of sucking.

16. Certain of Petitioner's documentation of activities between the patient and the provider of clinical services recorded the provider working with the child to do a variety of activities, including, *inter alia*, to blow cotton balls and whistle for strength, endurance, sensory modulation.

17. For each event in dispute (with the exception of those cases conceded by Petitioner), Petitioner billed Respondent for working with the patient to address various oral motor dysfunctions.

18. Petitioner testified concerning her specialized training in swallowing in the field of occupational therapy and how it is used in the occupational therapy treatment services she provided to the individual recipients whose billing is at issue here.

19. Petitioner billed using CPT codes 97530 and 92526.

20. Respondent agrees that Petitioner properly used CPT code 97530.

21. Petitioner documented the occupational therapy activity in the plan of care by use of CPT code 92526, described as "Treatment of swallowing dysfunction and/or oral function for feeding." (Resp. Ex. 5).

22. At the postpayment review, the reconsideration hearing before Respondent's Hearing Officer and at the contested case hearing before the Undersigned, Petitioner explained the specialized occupational therapy service provided and the difficulty in determining the proper CPT code for billing.

23. At the contested case hearing, the Undersigned found both witnesses to be credible and sincere, and to be dedicated to their profession as occupational therapists and to their respective employments.

24. The Undersigned finds as fact that Petitioner submitted appropriate and sufficient documentation for the provision of the covered specialized occupational therapy services which were billed to CPT code 92526.

25. The Undersigned finds as fact that Petitioner's error in using the wrong CPT code was a mere clerical error.

26. The Undersigned finds as fact that the clerical nature of Petitioner's error was known by Respondent.

27. Petitioner on at least two occasions requested of Respondent if it was possible to correct the billings.

28. Respondent provided no evidence that at any time it informed Petitioner of the proper CPT code for the provided covered specialized occupational therapy services in the plan of care.

29. The Undersigned finds as fact that Respondent never informed Petitioner of the proper CPT code for the provided covered specialized occupational therapy services in the plan of care.

30. Respondent provided no evidence that at any time it informed Petitioner how to correct a clerical error in her billing.

31. The Undersigned finds as fact that Respondent never informed Petitioner how to correct a clerical error in her billing.

32. As of the date of Respondent's Tentative Notice of Overpayment (April 26, 2012), for all but four dates of services, less than twelve months had passed since the delivery of the services by Petitioner.

33. Respondent's Decision is devoid of what is the proper CPT code for the covered specialized occupational therapy services provided, does not acknowledge the specialized treatment and does not advise how to correct a billing error.

34. At the contested case hearing, Respondent did not acknowledge the reason for Petitioner's use of CPT code 92526, did not suggest an alternative code, and did not advise how to correct a billing error.

CONCLUSIONS OF LAW

1. The Office of Administrative Hearings has jurisdiction over the parties and the subject matter pursuant to 150B of the North Carolina General Statutes.

2. Respondent bears the burden of proof in this matter pursuant to N.C. Gen. Stat. §108C-11(d).

3. The North Carolina Administrative Code ("Code") requires that Medicaid providers support reimbursement claims with proper documentation. Likewise, each provider signs a "participation agreement" wherein he or she agrees to operate and provide services in accordance with state law and all manner of rules, regulations, policies, manuals and bulletins which would command proper documentation.

4. The Code has two provisions which are entitled "Recoupment", 10A NCAC 22F .0601 and 10A NCAC 22F .0706.

5. 10A NCAC 22F .0706 speaks to recoupment of overpayments and how the money will be distributed.

6. 10A NCAC 22F .0601 states that "the Medicaid agency will seek full restitution of any and all improper payments made to providers by the Medicaid program." (Emphasis added) "Improper payments" are not defined in the Code; however, in reading *in pari materi* with other sections one may discern the meaning and intent.

7. 10A NCAC 22F .0103 also similarly states that the Division shall institute methods and procedures to, among other things, "recoup improperly paid claims."

8. The Code states at 10A NCAC 22F .0103 that "[t]he Division shall develop, implement and maintain methods and procedures for preventing, detecting, investigating, reviewing, hearing, referring, reporting, and disposing of cases involving fraud, abuse, error, overutilization or the use of medically unnecessary or medically inappropriate services." (Emphasis added).

9. "Error" is the only misdeed applicable to the within contested case; i.e., there are no allegations of fraud, abuse, overutilization or use of medically unnecessary or inappropriate services.

10. There has been no assertion or allegation in this proceeding that Petitioner was in any way responsible for fraud as defined in N.C.G.S. §108A-63, i.e., there is no allegation or assertion of the Petitioner "knowingly and willfully making or causing to be made any false statement or representation of material fact" or other type of fraud as defined therein.

11. N.C.G.S. §108C-5(o) directs that "The Department shall permit limited correction of clerical, typographical, scrivener's, and computer errors by the provider prior to final determination of any audit."

12. Respondent has extrapolated the result of the audit findings in this action to the entirety of the Medicaid payments received by Petitioner for the appropriate sampling frame size and time period.

13. N.C. Gen. Stat. §108C-5(i) requires that "[p]rior to extrapolating the results of any audits, the [Respondent] shall demonstrate and inform the provider that (i) the provider failed to substantially comply with the requirements of State or federal law or regulation...."

14. Respondent proffered the document entitled as "DMA Clinical Coverage Policy 10A (effective December 1, 2009)" as binding upon Petitioner as permitted by N.C. Gen. Stat. §108A-54.2.

15. Respondent issued Clinical Coverage Policy 10A to direct the provision of "outpatient specialized therapies," (therapeutic physical, occupational, speech, respiratory and audiologic services) and the billing for such services for Medicaid recipients.

16. The Clinical Coverage Policy 10A (Section 5.1 Treatment Services) states in pertinent part:

(c) The written plan for services must include defined goals for each therapeutic discipline.

(d) Each plan must include a specific content, frequency, and length of visit of service for each therapeutic discipline.

17. Respondent proffered no binding definition for "specific content."

18. Another relevant portion of Clinical Coverage Policy 10A (Section 7.2 Documenting Services) requires that:

Each provider must maintain and allow [Respondent's Division of Medical Assistance] to access the following documentation for each individual: ... (d) Description of services (intervention and outcome/client response) performed and dates of service.

19. Respondent proffered no binding definition for "intervention." Stedman's Medical Dictionary (2002) defines the word as "interference so as to modify a process or situation." Merriam-Webster Dictionary defines the word as "the act or fact or a method of interfering with the outcome or course especially of a condition or process (as to prevent harm or improve functioning)."

20. Respondent did proffer DMA December 2010 Medicaid Bulletin (Resp. Ex. 2) which, at pp. 4-5, addresses the "specific content of services" requirement, and the "description of services (intervention and outcome/client response)" requirement, under Policy 10A, 5.1 and 7.2. There were no representations made that the DMA December 2010 Medicaid Bulletin was enacted in accordance with N.C. Gen. Stat. § 108A-54.2.

21. With the exception of the dates of service conceded by the Petitioner as being in error, each of the records of Petitioner's Plans of Care for occupational therapy services contain such descriptions of defined goals and contents for each of the remaining patients' Plans of Care.

22. As a result, Petitioner substantially complied with the requirements of Respondent's Clinical Coverage Policy 10A, Section 5.1 by maintaining documentation of each patient's Plan of Care that contains defined goals and specific content.

23. With the exception of the dates of service conceded by the Petitioner as being in error, each of the records of Petitioner's delivery of occupational therapy services contain descriptions of the services provided to patients for each of the remaining disputed dates of service.

24. With the exception of the dates of service conceded by the Petitioner as being in error, each of the records of Petitioner's delivery of occupational therapy services contain a record of the patient's responses to utilized interventions for each of the remaining disputed dates of service.

25. As a result, Petitioner substantially complied with the requirements of Respondent's Clinical Coverage Policy 10A, Section 7.2 by maintaining documentation of the "description of services (intervention and outcome/client response) performed...."

26. With the exception of the dates of service conceded by the Petitioner as being in error, Respondent has failed to demonstrate how Petitioner "failed to substantially comply with the requirements of State or federal law or regulation" as required by N.C. Gen. Stat. §108C-5(i).

27. Respondent failed to inform Petitioner of the procedure for correcting the error in her billing as authorized by 10A NCAC 22F .0103.

28. Respondent failed to permit Petitioner to correct "clerical, typographical, scrivener's, and computer errors by the [Petitioner] prior to final determination of any audit" as authorized by N.C.G.S. §108C-5(o).

29. The Undersigned finds that Respondent's failure to inform Petitioner of the proper CPT code for the covered occupational therapy services, failure to inform Petitioner of the procedure to correct her billings for the covered specialized occupational therapy services, and failure to allow Petitioner to correct her billings for the covered specialized occupational therapy services was arbitrary and capricious.

30. Respondent has demonstrated error on the part of Petitioner for the following patients, dates of service, units of service and amounts:

Patient's		Date	of	Unit	of
<u>Last Name</u>	<u>First Name</u>	<u>Service</u>		<u>Service</u>	<u>Amount</u>
A	H	03/22/11		1	\$ 63.69
A	H	03/22/11		1	49.18
L	W	06/21/11		1	24.59
T	E	07/21/11		1	24.59

31. Respondent has demonstrated a total error arising from the 4 dates of services (alternatively referred to as claim details) listed above in the amount of \$162.05.

32. For all other dates of service (alternatively referred to as claim details) arising from Respondent's audit denominated as PI #2012-0490, Respondent has failed to carry its burden to prove that the Department of Health and Human Services (DHHS) Hearing Officer correctly decided to uphold the decision of the Division of Medical Assistance (DMA) to review Occupational Therapy Services provided to Medicaid recipients by Petitioner and that Petitioner received an overpayment of \$20,334.00 as a result of improperly documenting claims for Occupational Therapy Services delivered to Medicaid recipients.

BASED UPON the foregoing Findings of Fact and Conclusions of Law, the Undersigned makes the following:

FINAL DECISION

Petitioner received an overpayment in the amount of \$162.05 for the following patients, dates of service, units of service and amounts:

Patient's		Date	of	Unit	of
<u>Last Name</u>	<u>First Name</u>	<u>Service</u>		<u>Service</u>	<u>Amount</u>
A	H	03/22/11		1	\$ 63.69
A	H	03/22/11		1	49.18
L	W	06/21/11		1	24.59
T	E	07/21/11		1	24.59

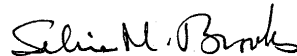
Respondent was in error in concluding that all other dates of services (alternatively referred to as claim details) arising from Respondent's PI #2012-0490 did not satisfy the requirements of Respondent's Clinical Coverage Policy 10A (effective December 1, 2009).

The amount of the recoupment shall be adjusted in accordance with these Findings Of Fact and Conclusions Of Law.

NOTICE

Under the provisions of North Carolina General Statute §150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.012, and the Rules of Civil Procedure, N.C. General Statute §1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 9th day of April, 2013.




Selina M. Brooks
ADMINISTRATIVE LAW JUDGE

A copy of the foregoing was sent to:

Curtis B. Venable, Esq.
Ott Cone & Redpath, PA
PO Box 3016
Asheville, NC 28802
ATTORNEY FOR PETITIONER

Michael Wood
Assistant Attorney General
N.C. Department of Justice
PO Box 629
Raleigh, NC 27602-06291
ATTORNEY FOR RESPONDENT

This the ~~10th~~ day of April, 2013.


Office of Administrative Hearings
6714 Mail Service Center
Raleigh, N.C. 27699-6714
Tel: (919) 431-3000
Fax: (919) 431-3100

Filed

STATE OF NORTH CAROLINA
COUNTY OF BLADEN

2013 APR 23 PM 12:54

IN THE OFFICE OF
ADMINISTRATIVE HEARINGS
12OSP06980

Office of

Administrative Hearings

Asia T. Bush,
Petitioner,

v.

North Carolina Department of Transportation,
Respondent.

FINAL DECISION

THIS MATTER came on for hearing before Beecher R. Gray, Administrative Law Judge, on March 14, 2013, in Fayetteville, North Carolina. After considering the allegations in the Petition, the testimony of all witnesses, and the documentary evidence and exhibits admitted, the undersigned makes the following **DECISION**:

APPEARANCES

PETITIONER: Asia T. Bush, Pro Se
Post Office Box 851
2479 Martin Luther King Dr.
Elizabethtown, North Carolina 28337

RESPONDENT: Kathryne E. (Beth) Hathcock
Assistant Attorney General
North Carolina Department of Justice
Post Office Box 629
Raleigh, North Carolina 27602

ISSUE

Whether Petitioner properly was separated under the Office of State Personnel policy for unavailability, or because of discrimination based on her gender or handicapping condition.

EXHIBITS

Respondent's Exhibits ("R. Exs.") 1-13 were admitted.

WITNESSES

Petitioner testified as her only witness.

Respondent called as witnesses: Amanda Olive, who serves as Classification, Compensation and Policy Manager for the North Carolina Department of Transportation ("DOT"); Administrative Officer Paula Windley; and Director Michael Bryant of the Vehicle Services Unit of the North Carolina Division of Motor Vehicles ("DMV").

Based upon the official documents in the file, the sworn testimony of the witnesses, and other competent evidence admitted at the hearing, the undersigned makes the following:

FINDINGS OF FACT

1. The parties received notice of hearing by certified mail more than 15 days prior to the hearing, and each stipulated that notice of hearing was proper.
2. Respondent Department of Transportation, Division of Motor Vehicles ("DMV") hired Petitioner to work as a Business Services Coordinator in the Bladen County Call Center on November 17, 2007. Business Services Coordinators more commonly are known as call center representatives or agents.
3. DMV's Bladen County Call Center is responsible for responding to customer service inquiries involving the agency's vehicle registration program, financial responsibility and insurance questions, driver's license concerns, safety and emissions inspections, and DMV's own policies and procedures. Specifically, call center representatives provide support services to DMV branch offices, driver's license examiner offices, lending institutions, courts, attorneys, insurance companies, and other parties on complex issues unresolved by automated voice processing equipment. (R. Ex. 11)
4. The Bladen County Call Center where Petitioner worked is extremely busy--averaging 5,500 incoming calls daily and 1.5 million calls each year. The Business Services Coordinator positions are the core of the Bladen County Call Center. Agents are required to answer 8-10 calls each hour with minimal supervision. Agents also frequently leave their assigned workspace to retrieve printouts from centralized printers; to make copies at a centralized copier; to research information using call center resources such as lienholder books, National Automobile Dealers Association books, special mailings books, Official Bulletin books, and the N.C. lawyer listing book; to discuss issues with supervisors; and to follow up with other call center agents who may have assisted the same customer. In 2011, DMV's Bladen County Call Center answered 1,359,799 calls, with an average wait time of 6:35. From January to October 2012, the call center answered 1,216,419 calls, with an average wait time of 5:45.
5. The chain of command in the Bladen County Call Center is as follows: Paula Windley, Administrative Officer, oversees the Bladen County Call Center with the assistance of Title Examining Supervisor Renee Summerlin. There are six teams of fourteen call

center agents, each led by a supervisor. (R. Ex. 10) Call Center agents work a full-time schedule of forty hours per week. (R. Ex. 11) There are no "light duty" positions at the Bladen County Call Center.

6. On October 15, 2010, Petitioner was granted twelve weeks of leave under the Family Medical Leave Act ("FMLA") because of pregnancy complications. (R. Ex. 1) At the expiration of her FMLA leave, Petitioner applied for and was granted short-term disability leave, effective March 16, 2011. (R. Ex. 5) Petitioner was advised that, "[w]ith proper documentation, you could be eligible for short term disability benefits until 3/15/2012." (R. Ex. 5)
7. It is the DOT's policy that prior to the expiration of an employee's one year short-term disability leave, the employee is advised--by letter--of the DOT's recommendation that he or she be separated because of unavailability. Prior to separation, the employee is given the opportunity to propose alternative methods of accommodation before a final decision regarding separation is made. (R. Ex. 12)
8. The DOT follows the Office of State Personnel's ("OSP") policy regarding separation, as found in the State Personnel Manual. The policy provides that, "[a]n employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits have been exhausted and agency management does not grant a leave without pay, or does not extend a leave without pay period, for reasons deemed sufficient by the agency." Under the policy, the employer must give the employee notification of the proposed separation, the efforts undertaken to avoid separation, and why the efforts were unsuccessful. (R. Ex. 6)
9. By letter dated February 29, 2012, Petitioner was informed that her short-term disability leave was about to expire and advised that she would be separated for unavailability unless she could propose a reasonable alternative method of accommodation. (R. Ex. 12)
10. In response to the letter from management recommending separation, Petitioner submitted two notes from a nurse practitioner, dated March 13, 2012, advising that Petitioner could resume "light duties with assistance as needed" beginning on April 1, 2012. The second note from the nurse practitioner anticipated that Petitioner "should be able to resume duties" after an appointment with a specialist scheduled to occur after April 01, 2012. (R. Ex. 8)
11. This proposed working arrangement was unacceptable to management because Petitioner's short-term disability leave expired on March 15, 2012, and Petitioner would have been expected to report to work and perform the essential functions of her position immediately thereafter. Because Petitioner was not able potentially to report to work until two weeks later on April 1, 2012, management believed that she was unavailable under the OSP separation policy.
12. Petitioner's proposed arrangements did not meet the operating needs of the Bladen County Call Center. The Business Services Coordinator position is considered critical to the work flow of the Call Center. The Call Center requires an employee in the Business

Services Coordinator position to work on a full-time basis, answering numerous calls in order to respond to the constant inquiries of the public.

13. Allowing Petitioner to return to work on "light duty with assistance" would place an undue hardship and be unduly burdensome on the Bladen County Call Center. In her four years and four months of employment as a call center agent, Petitioner had worked less than two years. The Call Center needed someone in the position to perform all of the requirements of the Business Services Coordinator position. With regard to approval of sick and vacation leave in the Call Center, office policy allows only a maximum of seven agents to be out of the office each day. When seven agents are out of the office for any reason, including FMLA and short-term disability leave, other employees are denied vacation and sick leave. In addition, when agents are out of the office, the Call Center is still responsible for answering the tremendous volume of customer calls each day. In order to respond to the calls, other agents and supervisors are required to increase their workload, putting additional stress and pressure on them.
14. By letter dated March 20, 2012, Petitioner was informed that she was being separated because of unavailability. The basis of that decision was that the Business Services Coordinator position is considered critical to the workflow of the Bladen County Call Center and Petitioner's proposed return to work arrangements did not meet the operating needs of the agency. (R. Ex. 13)
15. N.C. Admin. Code tit. 25 r. 1C.1007 ("Unavailability When Leave is Exhausted") provides in pertinent part: "(a) [a]n employee may be separated on the basis of unavailability when the employee becomes or remains unavailable for work after all applicable leave credits and benefits have been exhausted and agency management does not grant a leave without pay."
16. "Unavailability" is defined as the employee's inability to return to all of the position's essential duties and work schedule due to a medical condition or the vagueness of a medical prognosis; or the employee and the agency cannot reach agreement on a return to work arrangement that meets both the needs of the agency and the employee's medical condition." N.C. Admin. Code tit. 25 r. 1C.1007(d)(1).

CONCLUSIONS OF LAW

1. The parties properly are before the Office of Administrative Hearings under Chapters 126 and 150B of the North Carolina General Statutes, each having received a proper notice of hearing in this matter.
2. At the time of her separation, Petitioner was a career state employee, as defined under the provision of Chapter 126 of the North Carolina General Statutes, and is entitled to the protections of the North Carolina State Personnel Act and the administrative regulations promulgated thereunder.

3. The burden of proof for separation because of unavailability is not the just cause standard, as described in N.C. Gen. Stat. § 126-35. Rather, the agency has the burden to prove that the employee was unavailable and that the agency considered the employee's proposed accommodations or other reasonable accommodations. N.C. Admin. Code tit. 25 r. 1C.1007(c).
4. A preponderance of substantial evidence demonstrated that Respondent met its burden in proving that Petitioner was unavailable for work. After Petitioner's one year short-term disability leave expired on March 15, 2012, Petitioner was not able to return to work until April 1, 2012 and even then could only possibly perform "light duty with assistance as needed," as opposed to the essential functions of her position. Respondent considered Petitioner's requests; the proposed accommodations, however, were not feasible because of the critical operating needs of the Bladen County Call Center. Accordingly, Respondent followed all requirements for separating Petitioner because of unavailability in accordance with N.C. Admin. Code Tit. 25 r. 1C.1007.
5. Petitioner presented no credible evidence of discrimination by Respondent on the basis of her gender or a handicapping condition.

On the basis of the foregoing Findings of Fact and Conclusions of Law, the undersigned makes the following:

FINAL DECISION

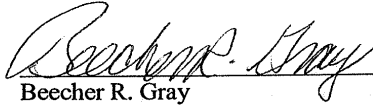
Based upon the foregoing Findings of Fact and Conclusions of Law, Respondent met its burden of proving 1) that Petitioner was unavailable to return to work at the expiration of her short-term disability leave and 2) that it considered Petitioner's proposed accommodations. Petitioner failed to prove that she was separated on the basis of her gender or a handicapping condition.

NOTICE

Under the provisions of North Carolina General Statute 150B-45, any party wishing to appeal the final decision of the Administrative Law Judge must file a Petition for Judicial Review in the Superior Court of Wake County or in the Superior Court of the county in which the party resides. **The appealing party must file the petition within 30 days after being served with a written copy of the Administrative Law Judge's Final Decision.** In conformity with the Office of Administrative Hearings' rule, 26 N.C. Admin. Code 03.012, and the Rules of Civil Procedure, N.C. General Statute 1A-1, Article 2, **this Final Decision was served on the parties the date it was placed in the mail as indicated by the date on the Certificate of Service attached to this Final Decision.** N.C. Gen. Stat. §150B-46 describes the contents of the Petition and requires service of the Petition on all parties. Under N.C. Gen. Stat. §150B-47, the Office of Administrative Hearings is required to file the official record in the contested case with the Clerk of Superior Court within 30 days of receipt of the Petition for Judicial Review. Consequently, a copy of the Petition for Judicial Review must be sent to the Office of

Administrative Hearings at the time the appeal is initiated in order to ensure the timely filing of the record.

This the 23 day of April, 2013.



Beecher R. Gray
Administrative Law Judge

On this date mailed to:

Asia T Bush
PO BOX 851
Elizabethtown, NC 28337
Petitioner

Kathryne E Hathcock
NC Dept of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
Attorney For Respondent

This the 23rd day of April, 2013.



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