

NORTH CAROLINA

REGISTER

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May 1, 2017

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The Office of Administrative Hearings

Rules Division

6714 Mail Service Center

Raleigh, NC 27699-6714

Telephone (919) 431-3000

Fax (919) 431-3104

Julian Mann III, Director

Molly Masich, Codifier of Rules

Dana Vojtko, Publications Coordinator

Lindsay Woy, Editorial Assistant

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings Rules Division 1711 New Hope Church Road Raleigh, North Carolina 27609	(919) 431-3000 (919) 431-3104 FAX
contact: Molly Masich , Codifier of Rules Dana Vojtko, Publications Coordinator Lindsay Woy, Editorial Assistant	molly.masich@oah.nc.gov (919) 431-3071 dana.vojtko@oah.nc.gov (919) 431-3075 lindsay.woy@oah.nc.gov (919) 431-3078

Rule Review and Legal Issues

Rules Review Commission 1711 New Hope Church Road Raleigh, North Carolina 27609	(919) 431-3000 (919) 431-3104 FAX
contact: Abigail Hammond , Commission Counsel Amber Cronk May , Commission Counsel Amanda Reeder , Commission Counsel Jason Thomas , Commission Counsel Alexander Burgos , Paralegal Julie Brincefield , Administrative Assistant	abigail.hammond@oah.nc.gov (919) 431-3076 amber.may@oah.nc.gov (919) 431-3074 amanda.reeder@oah.nc.gov (919) 431-3079 jason.thomas@oah.nc.gov (919) 431-3081 alexander.burgos@oah.nc.gov (919) 431-3080 julie.brincefield@oah.nc.gov (919) 431-3073

Fiscal Notes & Economic Analysis and Governor's Review

Office of State Budget and Management 116 West Jones Street Raleigh, North Carolina 27603-8005	(919) 807-4700 (919) 733-0640 FAX
Contact: Anca Grozav , Economic Analyst Carrie Hollis, Economic Analyst	osbmruleanalysis@osbm.nc.gov (919) 807-4740 osbmruleanalysis@osbm.nc.gov (919) 807-4757
NC Association of County Commissioners 215 North Dawson Street Raleigh, North Carolina 27603	(919) 715-2893
contact: Amy Bason	amy.bason@ncacc.org
NC League of Municipalities 215 North Dawson Street Raleigh, North Carolina 27603	(919) 715-4000
contact: Sarah Collins	scollins@nclm.org

Legislative Process Concerning Rule-making

545 Legislative Office Building 300 North Salisbury Street Raleigh, North Carolina 27611	(919) 733-2578 (919) 715-5460 FAX
Karen Cochrane-Brown, Director/Legislative Analysis Division Jeff Hudson, Staff Attorney	karen.cochrane-brown@ncleg.net Jeffrey.hudson@ncleg.net

NORTH CAROLINA REGISTER
 Publication Schedule for January 2017 – December 2017

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	270 th day from publication in the Register
31:13	01/03/17	12/07/16	01/18/17	03/06/17	03/20/17	05/01/17	05/2018	09/30/17
31:14	01/17/17	12/20/16	02/01/17	03/20/17	04/20/17	06/01/17	05/2018	10/14/17
31:15	02/01/17	01/10/17	02/16/17	04/03/17	04/20/17	06/01/17	05/2018	10/29/17
31:16	02/15/17	01/25/17	03/02/17	04/17/17	04/20/17	06/01/17	05/2018	11/12/17
31:17	03/01/17	02/08/17	03/16/17	05/01/17	05/22/17	07/01/17	05/2018	11/26/17
31:18	03/15/17	02/22/17	03/30/17	05/15/17	05/22/17	07/01/17	05/2018	12/10/17
31:19	04/03/17	03/13/17	04/18/17	06/02/17	06/20/17	08/01/17	05/2018	12/29/17
31:20	04/17/17	03/24/17	05/02/17	06/16/17	06/20/17	08/01/17	05/2018	01/12/18
31:21	05/01/17	04/07/17	05/16/17	06/30/17	07/20/17	09/01/17	05/2018	01/26/18
31:22	05/15/17	04/24/17	05/30/17	07/14/17	07/20/17	09/01/17	05/2018	02/09/18
31:23	06/01/17	05/10/17	06/16/17	07/31/17	08/21/17	10/01/17	05/2018	02/26/18
31:24	06/15/17	05/24/17	06/30/17	08/14/17	08/21/17	10/01/17	05/2018	03/12/18
32:01	07/03/17	06/12/17	07/18/17	09/01/17	09/20/17	11/01/17	05/2018	03/30/18
32:02	07/17/17	06/23/17	08/01/17	09/15/17	09/20/17	11/01/17	05/2018	04/13/18
32:03	08/01/17	07/11/17	08/16/17	10/02/17	10/20/17	12/01/17	05/2018	04/28/18
32:04	08/15/17	07/25/17	08/30/17	10/16/17	10/20/17	12/01/17	05/2018	05/12/18
32:05	09/01/17	08/11/17	09/16/17	10/31/17	11/20/17	01/01/18	05/2018	05/29/18
32:06	09/15/17	08/24/17	09/30/17	11/14/17	11/20/17	01/01/18	05/2018	06/12/18
32:07	10/02/17	09/11/17	10/17/17	12/01/17	12/20/17	02/01/18	05/2018	06/29/18
32:08	10/16/17	09/25/17	10/31/17	12/15/17	12/20/17	02/01/18	05/2018	07/13/18
32:09	11/01/17	10/11/17	11/16/17	01/02/18	01/22/18	03/01/18	05/2018	07/29/18
32:10	11/15/17	10/24/17	11/30/17	01/16/18	01/22/18	03/01/18	05/2018	08/12/18
32:11	12/01/17	11/07/17	12/16/17	01/30/18	02/20/18	04/01/18	05/2018	08/28/18
32:12	12/15/17	11/22/17	12/30/17	02/13/18	02/20/18	04/01/18	05/2018	09/11/18

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

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) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) 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; and
- (7) 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.

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 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Commerce, Division of Employment Security intends to adopt the rule cited as 04 NCAC 24A .0110 and amend the rules cited as 04 NCAC 24A .0102-.0105, .0109; 24B .0402; and 24C .0204.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://des.nc.gov/DES/static?page=DESRules>

Proposed Effective Date: September 1, 2017

Public Hearing:

Date: May 31, 2017

Time: 11:00 a.m.

Location: North Carolina Department of Commerce, Division of Employment Security, 700 Wade Avenue, Room C-165, Raleigh, NC 27605

Reason for Proposed Action: NC Session Law 2015-238 made changes to Chapter 96 of the North Carolina General Statutes. Part of the law, codified as G.S. 96-40, addresses unemployment insurance (UI) program integrity, and requires DES to prioritize enhancements, and maximize the efficiency of the State's UI program. The law requires DES to share information with certain other entities in order to prevent, detect, and reduce UI fraud, improper payments, and overpayments. The General Assembly specifically directed that DES participate in the Southeast Consortium Unemployment Insurance Benefits Initiative (SCUBI), a multi-state consortia consisting of North and South Carolina, and Georgia. The consortia has been working together to modernize their UI systems for better efficiency and cost-effectiveness. Another program, the State Information Data Exchange System (SIDES), is a web-based system that was developed between the United States Department of Labor and state UI agencies to streamline processes. DES and its customers are already using SIDES, and expect to begin using SCUBI this summer. As a result, DES must amend Rules 24A .0103, 24A .0104, 24A .0105, 24B .0402 and 24C .0204 to comply with the mandate for better effectiveness and efficiency. Rules 24A .0109 and 24A .0110 are proposed to clarify the authority granted by, and limitations on use of powers of attorney when conducting business with DES.

Comments may be submitted to: Sheena J. Cobrand, NC Division of Employment Security-Legal Services Section, P.O. Box 25903; fax (919) 715-7194; email des.rules@nccommerce.com

Comment period ends: June 30, 2017

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
- Substantial economic impact ($\geq \$1,000,000$)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

CHAPTER 24 - EMPLOYMENT SECURITY

SUBCHAPTER 24A – GENERAL

SECTION .0100 – GENERAL

04 NCAC 24A .0102 ADDRESS CHANGES AND ELECTRONIC ADDRESS CHANGES

(a) Each employing unit that has or had individuals in employment as defined in G.S. 96-1 shall notify DES in writing of any change to its mailing address. This notice shall be transmitted by facsimile, via the internet, or by postal mail within seven days after the effective date of the change. All notices shall be submitted to the Tax Administration Section, ATTN: Attn: Address Change by mail to Post Office Box 26504, Raleigh, North Carolina, 27611, facsimile to (919) 715-7194, or email to des.tax.customerservice@nccommerce.com.

(b) Each claimant with an active claim, or who is registered for work at a public employment office, shall notify DES in writing of any change in address or electronic mail address within seven days after the effective date of the change. All notices shall be submitted to the DES Customer Call Center, Attn: Address Change, by mail to Post Office Box 25903, Raleigh, NC 27611, facsimile to (919) 857-1296, or email to des.ui.customerservice@nccommerce.com. Claimants may also

make and submit address and electronic address changes from their home page in SCUBI.

(b) Each claimant who is liable to DES for an overpayment of benefits, or is registered for work at a public employment office, shall notify DES by facsimile, via the internet, or by postal mail of any change of address within seven days after the effective date of the change. All notices of overpayment address changes shall be submitted to the Benefits Integrity Unit, ATTN: Attn: Overpayment Address Change by mail to Post Office Box 25903, Raleigh, NC 27611, facsimile to (919) 733-1369, or email to des.ui.bpc@nccommerce.com.

Authority G.S. 96-4; 20 C.F.R. 640.

04 NCAC 24A .0103 ADDRESSES FOR NOTICE AND ELECTRONIC NOTICE

(a) In all transactions requiring notice by G.S. 96 or these Rules, DES shall provide notice to the party's a claimant or employer's last known address as reflected in its official records.

(b) Except as provided in Paragraph (a) of this Rule, Chapter, when DES shall mails mail a notice of an initial claim to the employer at one of the following addresses:

- (1) the address of the employer for which the claimant last worked;
- (2) if the employer has more than one branch or division at different locations, the address of the branch or division for which the claimant last worked; or
- (3) an address designated by the employer as reflected in DES's official records.

(c) Claimants may elect to receive communications from DES solely by electronic transmission as defined in 04 NCAC 24A .0105.

- (1) A claimant who consents to receive communication by electronic transmission may withdraw consent at any time by providing DES with a written withdrawal of consent.
- (2) Any communication that was sent to a claimant by electronic transmission before the withdrawal of consent shall be effective as an electronic transmission.
- (3) Except as provided in Paragraph (f) of this Rule, withdrawal of consent to receive communication by electronic transmission shall become effective on the date that DES receives the written withdrawal of consent.

(d) A claimant who elects to receive communications by electronic transmission shall provide DES with a valid email address.

- (1) DES shall validate each email address by sending a notification containing a hyperlink to the email address provided by the claimant. The email sent by DES shall require the claimant to click on the hyperlink in the email in order to navigate to SCUBI to complete validation.
- (2) After a claimant validates the email address, DES shall provide all communication by electronic transmission, including determinations, requests for information.

notices, and decisions. For each action taken on an account, DES shall notify each claimant by email that an action was taken, and shall direct the claimant to log into his or her SCUBI account.

(e) A claimant who elects to receive communication from DES by electronic transmission shall not receive communication from DES by mail, unless the communication transmitted to the claimant's email address is returned to DES as undeliverable.

(1) When an electronic communication is returned to DES as undeliverable, DES shall suspend communications by electronic transmission to the claimant's email address, and shall place an alert on the claimant's SCUBI home page. The alert shall notify the claimant:

- (A) that electronic transmissions to his or her email address have been suspended;
- (B) to contact the Customer Call Center to update his or her mailing and email addresses as provided in 04 NCAC 24A .0102; and
- (C) that the claimant may elect to resume receiving communications by electronic transmissions.

(2) Upon suspension of electronic transmissions to the claimant, DES shall send all communications to the claimant by first class mail.

(3) A claimant who elected to receive communications by electronic transmissions from DES, and who desires to continue receiving electronic communications, but instead receives postal mail, shall contact the Customer Call Center by phone at (888) 737-0259 or facsimile at (919) 250-4315 to provide a valid email address, and notify DES that communications should be sent by electronic transmission.

(f) Except as otherwise provided in this Chapter, DES shall use the date and time of the electronic transmission to the email address provided by the claimant, or authorized agent, as the service date for purposes of calculating the time periods for correspondence, notices, deadlines, and filings. Time periods shall be determined by the date of electronic transmission if the communication is not received by the claimant as a result of an error or omission on the part of the claimant, or agent of the claimant.

Authority G.S. 96-4; 96-9.2; 96-14.1; 96-15; 96-40.

04 NCAC 24A .0104 ADDRESSES FOR FILING CLAIMS, APPEALS, EXCEPTIONS, REQUESTS OR PROTESTS

(a) Claimants shall file a claim for unemployment insurance benefits by internet on DES's website, or by telephone.

(1) The telephone number for filing a new initial claim is (877) 841-9617. (888) 737-0259.

(2) Claimants with a social security number ending in an odd number shall file weekly certifications on Monday and Wednesday through Saturday by dialing (888) 372-3453.

(3) Claimants with a social security number ending in an even number shall file weekly certifications on Tuesday through Saturday by dialing (888) 372-3453.

(b) Appeals from a Determination by Adjudicator shall be filed with the Appeals Section by mail, facsimile, or email.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 733-1228.

(3) The email address is des.public.appeals@nccommerce.com.

(4) Any questions regarding the contents of a Determination by Adjudicator shall be directed to the Adjudication Unit by telephone to (919) 707-1410, facsimile at (919) 733-1127, or email at des.ui.customerservice@nccommerce.com. Correspondence and appeals submitted by email outside the Southeast Consortium Unemployment Benefits Initiative (SCUBI) system shall not include social security numbers or employer account numbers.

(5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(c) Appeals of a Non-Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit by mail or facsimile.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 733-1369.

(3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(5) Any questions regarding the contents of a Non-Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@nccommerce.com.

(d) Appeals of a Fraud Overpayment Determination shall be filed with the Benefits Integrity Unit by mail, mail or facsimile.

(1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 733-1369.

(3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(5) Any questions regarding the contents of a Fraud Overpayment Determination shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@nccommerce.com.

(e) Appeals of a Monetary Determination denying a protest to a Wage Transcript and Monetary Determination shall be filed with the Monetary Revision Unit Tax Administration Section by mail, facsimile, or email.

(1) The mailing address is Post Office Box 25903, 26504, Raleigh, North Carolina 27611.

(2) The facsimile number is (919) 715-3983-733-1255.

(3) The email address is des.ui.customerservice@nccommerce.com, des.tax.customerservice@nccommerce.com.

(4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(6) Any questions regarding the contents of a determination denying a protest to a Wage Transcript and Monetary Determination shall be directed to the Monetary Revision Account and Wage Adjustment Unit of the Tax Administration Section by telephone to (919) 707-1257, 707-1462, facsimile at (919) 715-3983, 733-1255, or email at des.ui.customerservice@nccommerce.com, des.tax.customerservice@nccommerce.com.

(f) Appeals Protests of a Wage Transcript and Monetary Determination shall be filed with the Monetary Revision Claims Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 715-3983.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Protests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the determination being protested, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the protest, the official position of an individual filing the protest on behalf of the party, and a telephone number.
- (4)(5) Any questions regarding the contents of a Wage Transcript and Monetary Determination shall be directed to the Monetary Revision Unit by telephone to (919) 707-1257, facsimile at (919) 715-3983, or email at des.ui.customerservice@nccommerce.com or des.monetaryrevision@nccommerce.com.

(g) Petitions for Waiver of Overpayment shall be filed with the Benefits Integrity Unit by mail, mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Any questions regarding the contents of an overpayment determination shall be directed to the Benefit Payment Control Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369 or email at des.ui.bpc@nccommerce.com. Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Petitions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the overpayment determination, the claimant's identification number, the name of the claimant, the name of the individual filing the petition, the official position of an individual filing the petition on behalf of the party, and a telephone number.

(h) Claimant appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter shall be filed with the Benefits Integrity Unit by mail, mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1369.
- (3) Correspondence regarding a claimant's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(4) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the offset letter being appealed, the claimant's identification number, the name of the claimant, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(3)(4) Any questions regarding the contents of a North Carolina Department of Revenue claimant's NCDOR Offset Letter shall be directed to the Benefits Integrity Unit by telephone to (919) 707-1338, facsimile at (919) 733-1369, or email at des.ui.bpc@nccommerce.com.

(i) Employer appeals of a North Carolina Department of Revenue (NCDOR) Offset Letter for outstanding tax debts shall be filed with and Tax Administration Section by mail, facsimile, or email, mail or facsimile.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com. Correspondence regarding an employer's NCDOR Offset Letter submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.

(5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the offset letter, the name of the employer, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(4)(6) Any questions regarding the contents of a an employer's NCDOR Offset letter for outstanding tax debts shall be directed to the Tax Administration Section by telephone to (919) 707-1150, 707-1119, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.

(j) Claimant Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with the Benefit Benefits Integrity Unit of mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 715-3983. 733-1369.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the TOP notice, the claimant's identification number, the name of

the claimant, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.

(3)(5) Any Claimant questions regarding TOP shall be directed to a Recovery Specialist by telephone to (919) 707-1338, or email at des.ui.bpc@nccommerce.com.

(k) Employer requests Requests for Reevaluation under the Treasury Offset Program (TOP) shall be filed with Employer Call Center (ECC) the Tax Administration Section by mail, telephone, facsimile or email, mail or facsimile.

- (1) The mailing address is Post Office Box 25903, 26504, Raleigh, North Carolina 27611.
- (2) The phone number is (919) 707-1150.
- (3)(2) The facsimile number is (919) 715-0780, 733-1255.
- (4) The email address is des.tax.customerservice@nccommerce.com.
- (3) Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the TOP notice, the name of the employer, the name of the individual filing the request, the official position of an individual filing the request on behalf of the party, and a telephone number.
- (5) Employer questions regarding TOP shall be directed to the Tax Administration Section by telephone to (919) 707-1119, facsimile at (919) 733-1255, or email at des.tax.customerservice@nccommerce.com.

(l) Appeals from an Appeals Decision shall be filed with the Board of Review by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-0690.
- (3) The email address is des.ha.appeals@nccommerce.com.
- (4) Correspondence and appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or issue identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the appeal, the official position of an individual filing the appeal on behalf of the party, and a telephone number.

(m) Requests for Post Decision Relief or Reconsideration shall be filed with the Board of Review by mail, facsimile, or email.

Protests or appeals of adequacy determinations shall be filed with the Claims Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 28263, 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 715-7193, 733-1126.
- (3) The email address is BOR@nccommerce.com. Correspondence submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the determination being protested or appealed, the name of the employer, the name of the party filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(n) Protests or appeals of a Tax Liability Determination shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the determination being appealed, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(o) Protests or appeals of a Tax Rate Assignment shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@nccommerce.com.
- (4) Correspondence and protests or appeal submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the rate assignment, the name of the employer, the name of the individual filing the protest or appeal, the official position of an individual filing the

protest or appeal on behalf of the party, and a telephone number.

(p) Protests or appeals of Audit Results shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@ncommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the result being protested or appealed, the name of the employer, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(q) Protests or appeals of Tax Assessments shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@ncommerce.com.
- (4) Correspondence and protests or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the assessment being protested or appealed, the name of the employer, the name of the individual filing the protest or appeal, the official position of the individual filing the protest or appeal on behalf of the party, and a telephone number.

(r) Exceptions to a Tax Opinion shall be filed with the Board of Review by mail, faesimile facsimile, or email.

- (1) The mailing address is Post Office Box 28263, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 715-7193.
- (3) The email address is BOR@ncommerce.com.
- (4) Correspondence and exceptions submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Exceptions shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the tax opinion, the claimant's identification number, the names of the claimant and employer, the name of the individual filing the exceptions, the official

position of an individual filing the exceptions on behalf of the party, and a telephone number.

(s) Requests for non-charging of benefits to an employer's account, and Protests protests or appeals of benefit charges to an employer's account, or requests for non charging account shall be filed with the Employer Benefit Charges/Benefit Charges Claims Unit by mail or facsimile.

- (1) The mailing address is Post Office Box 25903, Raleigh, North Carolina 27611-5903.
- (2) The facsimile number is (919) 733-1126.
- (3) All questions regarding non charging shall be directed to the Employer Benefit Charges/Benefit Charges Unit at (919) 707-1279. Correspondence, requests, protests, or appeals submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (4) Requests for non-charging and protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or employer's identification number, the name of the employer, the name and official position of the individual filing the request, protest, or appeal, on behalf of the party, and a telephone number.

(t) Protests or appeals of a Denial of Seasonal Assignment shall be filed with the Tax Administration Section by mail, facsimile, or email.

- (1) The mailing address is Post Office Box 26504, Raleigh, NC 27611.
- (2) The facsimile number is (919) 733-1255.
- (3) The email address is des.tax.customerservice@ncommerce.com.
- (4) Correspondence and protests or appeal submitted by email outside the SCUBI system shall not include social security numbers or employer account numbers.
- (5) Protests or appeals shall be filed by a party or a party's legal representative as defined in 04 NCAC 24A .0105 and shall contain the docket or identification number of the denial being appealed, the name of the employer, the name of the individual filing the protest or appeal, the official position of an individual filing the protest or appeal on behalf of the party, and a telephone number.

(u) Transmittal of interstate work search records and photo identification shall be filed with the Interstate Unit by mail, mail or facsimile.

- (1) The Mailing Address mailing address is Post Office Box 27967, 25903, Raleigh, North Carolina 27611.
- (2) The facsimile number is (919) 733-1370.
- (3) All questions regarding interstate work search requirements shall be directed to the Interstate Unit at (919) 707-1237.

Authority G.S. 75-62; 96-4; 96-14.1; 96-15; 96-17; 96-40; 20
C.F.R. 603.4.

04 NCAC 24A .0105 DEFINITIONS

(a) In addition to the terms defined in G.S. 96, the following definitions apply whenever these terms are used in this Chapter:

- (1) "Additional claim" means the reopening of a valid initial claim for unemployment insurance benefits after a claimant, as defined in Item (16) of this Rule, ceased filing a weekly certification as defined in G.S. 96-14.9, for one or more weeks due to intervening employment. The first week of eligibility filed after a claim has been reopened shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.
- (2) "Agent state" means any state from which, or through which a claimant files a claim for benefits from another state.
- (3) "Adjudicator" means an employee of DES appointed to conduct an informal investigation and render a determination as required by G.S. 96-15(b).
- (4) "Appeal" means a submission by a party with statutory appeal rights requesting the Appeals Section of DES or the Board of Review to review a determination or decision that is adverse to that party.
- (5) "Appeals Referee" or "Hearing Officer" means an attorney appointed to hear or decide an appeal from a determination by an adjudicator and issues involving the rights, status, and liabilities of an employer pursuant to the provisions of G.S. 96-4(q) or 96-15(c).
- (6) "Appeals Section" means the section within DES where Appeals Referees conduct quasi-judicial administrative evidentiary hearings and make decisions in contested cases for unemployment insurance benefits. The Appeals Section also consists of support staff that assists Appeals Referees.
- (7) "Application for a position" means supplying the information required by an employer to place an individual in a particular position or opening. Such information may include proof of the qualifications or license required by the position or opening, employment history, and personal information, such as full name, Social Security Number or other identification number, telephone number, and current address. An application for a position may be accomplished in whatever manner acceptable to an employer, including the completion of a designated form, the provision of a written resume, or verbally.
- (8) "Authorized Representative" means an individual authorized by an employer or employing unit to act on the employer or employing unit's behalf before DES.
- (9) "Base period" means as defined in 96-1(b)(3). Calendar quarters are January through March, April through June, July through September, and October through December.
- (10) "Benefit week" means a period of seven consecutive calendar days, ending at 11:59 pm on Saturday.
- (11) "Benefit wage credits" means wages used to determine a claimant's monetary eligibility for benefits. Benefit wage credits consist of the wages a claimant received or should have received during the claimant's base period of employment and to include those wages that were awarded and paid to the claimant after the base period pursuant to a court order; a National Labor Relations Board determination; another adjudicative agency; or by private agreement, consent, or arbitration for loss of pay because of discharge. DES shall credit the awarded wages to the quarter in which the wages should have been paid.
- (12) "Board of Review" means as defined in G.S. 96-15.3 and is the body that conducts "higher authority review" of appeals arising from the decisions of the Division, tax liability hearings, and labor disputes. The Board of Review is also referred to as the "Board" or "BOR."
- (13) "Calendar Period" means the 52 week period beginning with the first day of a week in which an individual first files a valid claim for benefits and registers for work. The week begins on the first Sunday preceding the initial claim filed and ends the following year at 11:59 p.m. on Saturday.
- (14) "Charging cycle" means each calendar quarter following the prior reporting cycle, during which the employer's account is assessed and charged for erroneous unemployment insurance benefit payments resulting from untimely or inadequate responses, as defined in 04 NCAC 24D .0301, from the employer to particular Requests for Separation Information during that charging cycle if the employer met or exceeded the adequacy threshold in the prior reporting cycle.
- (15) "Chief Appeals Referee" includes the Chief Appeals Referee's designee, unless otherwise stated.
- (16) "Claimant" means an individual who files an unemployment insurance benefits claim for payments as provided in G.S. 96-14.1.
- (17) "Clear and convincing evidence" means evidence indicating that the thing to be proved is highly probable or reasonably certain.
- (18) "Customarily," as the term is used in G.S. 96-16, means during at least 75 percent of the calendar years of an observation interval.
- (19) "Customary" as used in G.S. 96-15.01 means the usual and habitual number of hours worked.

(19)(20) "Day" means a calendar day.

(20)(21) "Delivery service" means an authorized designated carrier pursuant to Rule 4(j) of the North Carolina Rules of Civil Procedure and 26 U.S.C. 7502(f)(2).

(21)(22) "DES website" means the internet address found at www.des.nc.gov.

(22)(23) "Due diligence" means the measure of carefulness, precaution, attentiveness, and good judgment as to be expected from, and exercised by a reasonable and prudent person under the particular circumstances.

(23)(24) "Effective date of a claim" means either the benefit year beginning on the Sunday preceding the payroll week ending date if the claimant is payroll attached, or the benefit year beginning on the Sunday of the calendar week within which a claimant filed a valid claim for benefits and registered for work if the claimant is not payroll attached.

(24)(25) "Electronic transmission" means ~~transmission by facsimile or internet, delivery to an electronic mail address at which an individual or employer has consented to receive notices, documents, or other communications; or posting on an electronic network or site accessible by internet through use of a mobile application, computer, mobile device, tablet, or any other electronic device, and sending separate notice of the posting, or using any other delivery method to which the individual or employer has consented. Communication sent by DES electronic transmission shall be complete on transmission.~~

(25)(26) "Equity and good conscience" means fairness as applied to a given set of circumstances.

(26)(27) "Fault" means an error or defect of judgment or of conduct; any deviation from prudence or duty resulting from inattention, incapacity, perversity, bad faith, or mismanagement.

(27)(28) "Good cause" means a legally sufficient reason.

(28)(29) "In-person/telephone hearing" means an administrative hearing before the Appeals Section, Board of Review, or other designated Hearing Officer where at least one party or witness appears in-person, and another party or witness appears by telephone.

(29)(30) "Interstate benefit payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits may be paid to unemployed claimants absent from the state (or states) where benefit wage credits accumulated. This Rule incorporates the United States Department of Labor's Interstate Benefit Payment Plan, Interstate Agreements, ET Handbook No. 392 app. B (2d ed. 1997) by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S.

150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

(30)(31) "Interstate claimant" means a claimant who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any claimant who customarily commutes from a residence in an agent state to work in a liable state unless the Division finds that this exclusion would create an undue hardship.

(31)(32) "Labor dispute" means a dispute between an employer and its employees about wages, hours, working conditions, or issues concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or condition of employment, between those who could be concerned in the controversy.

(32)(33) "Last known address" means the most recent address provided to DES by the claimant or taxpayer located in its official record, except that DES shall update addresses maintained in its official records by referring to data accumulated and maintained in the United States Postal Service (USPS) National Change of Address database that retains change of address information (NCOA Database). If the claimant or taxpayer's name and last known address in DES's official records match the claimant or taxpayer's name and previous mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address. This Rule incorporates the United States Postal Service's National Change of Address Database by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

(33)(34) "Legal representative" means a licensed attorney or a person supervised by a licensed attorney.

(34)(35) "Liable state" means any state against which a claimant files a claim for benefits through another state.

(36) "NDNH" is an acronym, and means the National Directory of New Hires. NDNH is a national database of wage and employment information established by the Personal Responsibility and Work Opportunity

Reconciliation Act of 1996, and operated by the federal Office of Child Support Enforcement.

(35)(37) "Observation interval" means an interval of time including the four consecutive calendar years preceding the calendar year in which an application for a seasonal determination is made pursuant to G.S. 96-16. In the case of a newly liable employer or an employer whose operational activities have changed, the observation interval may be less than four calendar years.

(38) "Official record" means information in the records of a state or state unemployment compensation agency that pertains to the administration of the unemployment insurance program. Official records include claim information, wage information, confidential information, and unemployment compensation information as defined in 20 C.F.R. 603.2. Official records also include information provided by a federal, state, or private entity, or a claimant or employer for reliance upon, or use by the state in administering its unemployment insurance program.

(36)(39) "Party with appeal rights" means a party who has the right to appeal an unfavorable determination or decision pursuant to G.S. 96-4(q) and G.S. 96-15.

(37)(40) "Public employment office" means a local office managed and operated by the Division of Workforce Solutions (DWS) of the North Carolina Department of Commerce.

(38)(41) "Regularly recurring" means a period or periods of operational activity and shall be deemed regularly recurring if, during at least seventy-five percent of the calendar years in the observation interval, the beginning and ending dates of the period or periods do not vary more than four weeks.

(39)(42) "Reopened claim" means the resumption of a valid initial claim following a break in filing weekly certifications during a benefit year and the break was caused by reasons other than intervening employment. The first week of eligibility following the effective date of the reopened claim shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.

(40)(43) "Reporting cycle" means the 52 week period beginning August 1st and ending July 31st the following year in which the employer's account is examined and recorded for any inadequate responses to Requests for Separation Information (NCUI 500AB).

(44) "SCUBI" is an acronym, and means the Southeast Consortium Unemployment Benefits Initiative referenced in G.S. 96-40(b)(1). SCUBI is a multi-state consortia consisting of North Carolina, South Carolina, and Georgia.

(45) "SIDES" is an acronym, and means the State Information Data Exchange System. SIDES is a secure, nationally standardized, web based system that allows electronic transmission of information requests from DES to employers or third party administrators, as well as electronic transmission of replies containing the requested information back to DES.

(46) "State" means any of the 50 states in the United States and includes the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

(47) "Valid email address" means a unique identifier for an email account that is used to send and receive messages over the internet, and is composed of three parts: the user name, the "at symbol" (@), and the domain. To be valid, an email address must be one to which DES can send emails, and must be provided to DES for use by the claimant, employer, legal representative, or other authorized representative of the claimant or employer. The most recent email address provided to DES shall be maintained in DES's records, as the claimant's or employer's official email address.

(48) "Wages paid" means both wages actually received by a worker, and wages "constructively paid." Wages are constructively paid when they are credited to the account of, or set apart for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made, and shall be made available so that the worker may draw upon them at any time, and payment brought within the worker's control and disposition, although not then actually reduced to possession.

(49) "Wages payable" means wages earned but not paid.

(50) "Weekly period" means a seven day period beginning at 12:00 a.m. Sunday and ending on the following Saturday at 11:59 p.m.

(51) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits for the week are claimed.

Authority G.S. 84; 96-1; 96-4; 96-9.2; 96-9.6; 96-14.1; 96-14.9; 96-15; 96-17; 96-20.

04 NCAC 24A .0109 POWER OF ATTORNEY

(a) ~~An~~ A claimant or employer may appoint an agent with full or limited power and authority to act on his, her, or its behalf with DES. ~~An~~ A claimant or employer's appointment of an agent shall be made in writing in the manner prescribed by G.S. ~~32A-1~~ 32A-1, or by using the Power of Attorney and Declaration of Representative form found on DES's website at www.des.nc.gov.

(b) An agent appointed pursuant to a power of attorney may:

(1) complete and submit documents for filing employers' tax and wage reports;

- (2) complete and submit documents regarding an employer's tax rate, contributions, and direct reimbursements;
- (3) respond to benefit claims documents, including completion of the Request for Separation Information;
- (4) engage in discussions with DES representatives regarding the actions listed above; and
- (5) accept or receive correspondence sent by DES regarding claims for benefits or an employer's contributions.

Authority G.S. 32A-1; 32A-2; 96-4; 96-9.15.

04 NCAC 24A .0110 LIMITATION ON AUTHORITY GRANTED BY POWER OF ATTORNEY

- (a) A representative authorized to act for a claimant or employer pursuant to a power of attorney shall not enter appeals or protests from any decisions made by an adjudicator, appeals referee, hearing officer, the Assistant Secretary, the Board of Review, or any other employee authorized to act on behalf of DES or the Board of Review, unless the representative is qualified to serve as a legal representative pursuant to G.S. 96-17(b).
- (b) A representative authorized to act for a claimant or employer pursuant to a power of attorney may appear as a witness, but shall not represent the claimant or employer in any hearings conducted by DES, the Board of Review, or any employee authorized to act on behalf of DES or the Board of Review.
- (c) An individual authorized to act as a legal representative in a hearing before an Appeals Referee shall submit notice in writing to the Appeals Referee in accordance with 04 NCAC 24C .0302.
- (d) An individual authorized to act as a legal representative in a hearing before the Board of Review, or to enter an appeal or protest before the Board of Review, shall submit notice in writing in accordance with 04 NCAC 24C .0504.

Authority G.S. 84-2.1; 84-4; 84-4.1; 84-5; 96-4; 96-17.

SECTION .0400 - ADJUDICATION

04 NCAC 24B .0402 REQUEST FOR SEPARATION INFORMATION FROM EMPLOYER

- (a) In connection with a claim filed by a claimant, DES shall require the claimant's last employer to provide complete information (sufficient facts) to make a correct initial determination of the claimant's eligibility for unemployment insurance benefits without having to contact the employer to obtain additional information. DES shall provide requests for information regarding a claimant's separation or status to the employer's last known mailing address or email address as reflected in DES's official records. Requests shall be provided to the employer's mailing address when responding to the request by SCUBI, and to the email address when responding to the requests by SIDES.
- (b) Employers shall electronically submit separation information and information regarding a claimant's employment status a Form NCUI 500AB consistent with G.S. 96-15(b)(2) that shall be provided to the employer's last known address as reflected in its

official records and include the following information: by SCUBI at www.des.nc.gov or by SIDES.

- (1) DES shall provide employers using SCUBI with written instructions for submitting responses by SCUBI with the request for information.

- (2) SIDES participants who elect to receive communications from SIDES shall receive written instructions for submitting responses to the request for information by email or proprietary SIDES interface software.

(c) Each employer's response in connection with a request from DES shall include the following information as applicable to a claimant's claim:

- (1) last and first dates of employment;
- (2) the claimant's pay rate;
- (3) the gross amount of the any vacation, severance, and any sick pay;
- (4) the beginning and ending dates covered by the any separation payments;
- (5) if the claimant quit their job: the job or left work:
 - (A) a copy of the employee's resignation letter letter, if one exists; and
 - (B) the reason(s) for the resignation each reason provided by the claimant to the employer for leaving work; or
- (6) if the claimant was discharged:
 - (A) the each reason(s) reason for the separation discharge and with supporting documentation and evidence; and
 - (B) copies of any employee policies, warnings, handbooks, documents, or contracts signed by the employee that pertain to the employee's discharge; a copy of each policy, warning, handbook, document, acknowledgment, or contract signed by the claimant that is relevant to the claimant's discharge; or
- (7) if the claimant was separated due to an inability to perform the job duties and was employed less than 100 days, an explanation describing the job requirements, the claimant's inability to perform the job duties, and steps taken by the employer to assist the claimant to perform the job duties prior to discharge; or
- (8) if the claimant is still employed: employed with the employer:
 - (A) the terms of employment and conditions under which the employee claimant was hired;
 - (B) the number of hours per week that the employee claimant is currently working;
 - (C) the customary number of hours per week that the claimant has worked;

(e)(D) with regard to any reduction of the employee's claimant's work hours, hours:

- (i) the date the reduction took place, place;
- (ii) reasons for the reduction, reduction; and
- (iii) if the reduction is temporary, any date when the employee may be allowed to the expected date for the claimant's return to work; or and

(8) if the employee was separated due to an inability to perform job duties and was employed less than 100 days, an explanation describing the inability to perform the job duties; and

(9) any separation or status information requested by DES, or which that the employer should expect expects is necessary for DES to make a correct initial determination of the claimant's eligibility for unemployment benefits.

(e) Employers may respond to requests for separation information by mail or fax as provided under 04 NCAC 24A .0104, or by submitting their responses at www.ncesc.com through the employer portal.

Authority G.S. 96-1; 96-4; 96-11.3; 96-11.4; 96-15; 96-15.01.

SUBCHAPTER 24C - INITIAL APPEALS FROM DETERMINATION AND HIGHER AUTHORITY REVIEW

SECTION .0200 – INITIAL APPEALS HEARING

04 NCAC 24C .0204 APPEALS HEARING NOTICE

(a) The Appeals Section shall mail notice of the hearing to each party at least 14 days before the hearing date, unless a party elects to receive notices by electronic transmission pursuant to 04 NCAC 24A .0103.

(b) A party who elects to receive correspondence and notices by electronic transmission shall receive an email notification that the hearing notice, documents, or other information are available for electronic retrieval, along with instructions for retrieval.

(b)(c) Notice of the hearing shall include:

- (1) the determination appealed;
- (2) the appealing party;
- (3) the time of the hearing;
- (4) the date of the hearing;
- (5) if requested at the time of filing the appeal, the physical location of an in-person hearing;
- (6) the telephone number of each party for telephone hearings;
- (7) each issue, with statutory reference, to be heard and decided;
- (8) the name and contact information of the designated Appeals Referee;

- (9) the manner by which witnesses may offer evidence and participate in the hearing;
- (10) each party's right to legal representation;
- (11) instructions for requesting a rescheduling of the hearing;
- (12) each party's right and instructions for requesting the issuance of a subpoena for the production of records or individuals to appear to testify;
- (13) instructions on how to request an in-person hearing; and
- (14) instructions on how to give evidence for a hearing.

(e)(d) The determination, the written appeal, and any additional documents provided to the Appeals Section by either party, party shall accompany the hearing notice.

Authority G.S. 96-4; 96-15.

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Natural and Cultural Resources intends to adopt the rules cited as 07 NCAC 02H .0107-.0109.

Link to agency website pursuant to G.S. 150B-19.1(c): <https://www.ncdcr.gov/>

Proposed Effective Date: September 1, 2017

Public Hearing:

Date: May 17, 2017

Time: 10:00 a.m.

Location: State Library of North Carolina, 109 East Jones Street, Room 310E, Raleigh, NC 27601

Reason for Proposed Action: Pursuant to G.S. 125-2(4), the proposed rules makes changes to the North Carolina Government and Heritage Library's borrowing privileges.

07 NCAC 02H .0107 - authorizes registered borrowers to check-out and reserve circulated materials within the Library's collection, explains when borrowers are required to return borrowed materials and how they will be notified when materials become overdue, and instructs borrowers that their borrowing privileges can be restricted or suspended for failing to comply with the rules contained in Subchapter 02H of Title 07.

07 NCAC 02H .0108 - expands access to the Library's materials and equipment to the general public. This rule also extends borrowing privileges to citizens of the State who have registered with the Library. Registered borrowers will be issued a Library card free of charge. Likewise, lost or stolen cards can be replaced at no additional charge to the borrower.

07 NCAC 02H .0109 - outlines the Library's process for restricting or suspending a patron's access to materials and equipment for violation of the Rules in this Subchapter.

A fiscal note has been prepared regarding these rules and a copy may be obtained from the Agency upon request.

Comments may be submitted to: *Michelle Underhill, 4640 Mail Service Center, Raleigh, NC 27699; email michelle.underhill@ncdcr.gov*

Comment period ends: *June 30, 2017*

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
- Substantial economic impact ($\geq \$1,000,000$)
- Approved by OSBM
- No fiscal note required by G.S. 150B-21.4

CHAPTER 02 - STATE LIBRARY

SUBCHAPTER 02H - LIBRARY SERVICES

SECTION .0100 – GOVERNMENT AND HERITAGE LIBRARY

07 NCAC 02H .0107 BORROWING PRIVILEGES

- (a) Library materials and equipment shall be available to all registered borrowers in accordance with the Rules set forth in this Subchapter.
- (b) Circulated materials may be checked out by registered borrowers for 28 calendar days ("loan period").
- (c) Registered borrowers may reserve circulated materials and have them placed on hold. Materials shall be reserved by:
 - (1) visiting the library circulation desk;
 - (2) online at ncgov.nccardinal.org;
 - (3) calling the Government and Heritage Library at 919-807-7450; or
 - (4) submitting an email to slnc.reference@ncdcr.gov.

Materials placed on hold shall be held at the library circulation desk for five business days.

(d) Registered borrowers may renew loaned materials once per loan period. Renewals shall be made in the same manner as provided in Paragraph (c).

- (e) Borrowed materials shall be classified as overdue if they are not returned by 5:00 PM on the last day of the loan period. An overdue notice shall be sent to the borrower by email or U.S. Mail for any materials that are not returned or renewed prior to the end of the loan period. Borrowers shall not be fined for overdue books.
- (f) The status of borrowed items shall be changed to lost for items not returned after 90 calendar days. Borrowers shall be required to comply with Rule .0103 of this Section to replace lost items.
- (g) Failure to comply with Paragraph (e) of this Rule may result in the restriction or suspension of a borrower's privileges as set forth in this Subchapter.

Authority G.S. 125-2(4); 143B-10.

07 NCAC 02H .0108 REGISTRATION

- (a) The Government and Heritage Library shall maintain a collection of materials and equipment that shall be available for use to the public.
- (b) Borrowing privileges shall only be granted to citizens of the State and State employees who have registered with the Government and Heritage Library.
- (c) To register for borrowing privileges, each individual shall appear in person and provide the Library with the following information on a form provided by the Library:

- (1) name;
- (2) address;
- (3) telephone number;
- (4) email address;
- (5) date of birth;
- (6) physical driver's license, or state-issued photo identification, if over the age of 16; and
- (7) signature or signature of parent/guardian, if under the age of 16.

- (d) The Library shall provide all registered borrowers with a Library card at no cost. The card may be presented in order to check-out materials in the Library's collection. If a borrower cannot present his or her card, the borrower's status may be confirmed by providing the librarian with his or her name and address. If a card is lost or stolen, the borrower may receive a replacement card, at no charge, by providing the librarian with the information contained in Paragraph (c) of this Rule.

- (e) Borrowers shall notify the Library of any change in their information required by Paragraph (c) of this Rule. Failure to inform the Library of these changes may result the restriction or suspension of borrowing privileges as set forth in Rule .0109 of this Section.

Authority G.S. 125-2(4); 143B-10.

07 NCAC 02H .0109 RESTRICTION AND SUSPENSION OF PRIVILEGES

- (a) The Government and Heritage Library may restrict or suspend a patron's access to materials and equipment for violation of any Rule set forth in this Subchapter.
- (b) A borrower's check-out privileges shall be suspended for the following:
 - (1) failure to return overdue materials within 15 days of the issuance of any overdue notice;

(2) damage to any library materials or equipment;
(3) unauthorized use of materials or equipment, including loaning library materials to non-registered borrowers, using materials or equipment in a manner prohibited by its proper use, or removing non-circulating materials or equipment from the Library.

(c) The period of suspension shall not exceed one year. In setting the period of suspension, the State Librarian shall consider the Rule violated, the extent of harm to the Library's property, and any previous rule violations by the patron. The State Librarian shall send a letter of suspension to the borrower by email or U.S. Mail.

Authority G.S. 125-2(4); 143B-10.

TITLE 14B – DEPARTMENT OF PUBLIC SAFETY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Public Safety-Boxing Authority intends to amend the rules cited as 14B NCAC 10 .0501 and .0801.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.ncdps.gov/administrative-rules>

Proposed Effective Date: September 1, 2017

Public Hearing:

Date: June 1, 2017

Time: 2:00 p.m.

Location: ABC Commission Hearing Room, 400 East Tryon Road, Raleigh, NC 27610

Reason for Proposed Action: *The Boxing Authority proposes to amend two current rules governing weigh-ins for contestants competing in boxing and mixed martial arts events to increase contestant safety. Currently, boxing contestants are required to participate in a weigh-in (to establish whether the contestant's weight falls within the permissible limits for his/her weight class) to no earlier than 6 p.m. the day before an event. Currently, mixed martial arts contestants are required to participate in two separate weigh-ins; one on the day before an event and a second weigh-in on the day of the event within eight hours of the starting time of the event. The proposed amendment to 14B NCAC 10 .0501 will allow for an earlier weigh-in time for boxing event contestants of noon or later the day before a scheduled event. The proposed amendment to 14B NCAC 10 .0801 will eliminate the current requirements that mixed martial art contestants weigh-in at a second day weigh-in, thus allowing them more time to rehydrate prior to competing in an event. These rule changes*

are consistent with the nation-wide trend encouraging earlier weigh-in times in order to allow participants more time to hydrate properly before contests.

Comments may be submitted to: Angel E. Gray, General Counsel, NC State Bureau of Investigation, 3320 Garner Rd., Raleigh, NC 27601; phone (919) 662-4500, agray@ncsbi.gov

Comment period ends: June 30, 2017

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
 Substantial economic impact ($\geq \$1,000,000$)
 Approved by OSBM
 No fiscal note required by G.S. 150B-21.4

CHAPTER 10 - BOXING AUTHORITY

SECTION .0500 - BOXING

14B NCAC 10 .0501 WEIGH-INS FOR BOXING

(a) Boxers shall be classified by weight as shown in the following schedule. A contestant shall not be permitted to compete if the difference in weight between the contestants exceeds the difference shown in the following schedule. Contestants shall be classified by weight and may fight above or below his or her weight class in accordance with this Paragraph. The maximum amount of weight difference between the two contestants shall be decided by the lower weight class. A contestant shall not be permitted to compete if the difference in weight between the contestants exceeds the difference shown in the following schedule:

	Weight Class	Weight	Allowance
(1)	Flyweight	112 pounds or under less	not more than 3 pounds.
(2)	Bantamweight	over 112 pounds to 118 pounds	not more than 3 pounds.
(3)	Featherweight	over 118 pounds to 126 pounds	not more than 5 pounds.
(4)	Junior Lightweight	over 126 pounds to 130 pounds	not more than 7 pounds.
(5)	Lightweight	over 130 pounds to 135 pounds	not more than 7 pounds.

(6)	<u>Junior Welterweight</u>	over 135 pounds to 140 pounds	not more than 9 pounds.
(7)	<u>Welterweight</u>	over 140 pounds to 147 pounds	not more than 9 pounds.
(8)	<u>Junior Middleweight</u>	over 147 pounds to 154 pounds	not more than 11 pounds.
(9)	<u>Middleweight</u>	over 154 pounds to 160 pounds	not more than 11 pounds.
(10)	<u>Light Heavyweight</u>	over 160 pounds to 175 pounds	not more than 12 pounds.
(11)	<u>Cruiserweight</u>	over 175 pounds to 190 pounds	not more than 15 pounds.
(12)	<u>Heavyweight</u>	over 190 pounds	no limit

Weight class	Weights	Allowances
Flyweight	up to 112 pounds	not more than 3 pounds
Bantamweight	112.1 to 118.0 pounds	not more than 3 pounds
Featherweight	118.1 to 126.0 pounds	not more than 5 pounds
Junior Lightweight	126.1 to 130.0 pounds	not more than 7 pounds
Lightweight	130.1 to 135.0 pounds	not more than 7 pounds
Junior Welterweight	135.1 to 140.0 pounds	not more than 9 pounds
Welterweight	140.1 to 147.0 pounds	not more than 9 pounds
Junior Middleweight	147.1 to 154.0 pounds	not more than 11 pounds
Middleweight	154.1 to 160.0 pounds	not more than 11 pounds
Light Heavyweight	160.1 to 175.0 pounds	not more than 12 pounds
Cruiserweight	175.1 to 190.0 pounds	not more than 15 pounds
Heavyweight	over 190.1 pounds	no limit

(b) Contestants in matches shall be weighed on the same scale at a time and place to be determined by the Division representative, in the presence of the opponent and the Division representative. Once the time and location of weigh-ins has been established, contestants shall be notified by the promoter or his or her designee. All contestants, contestants, except heavyweights, are shall be limited to shirt, shorts shorts, and socks. socks while being weighed in. The weigh-in shall occur 12 hours or less prior to the scheduled starting time of the first match of the program of matches, provided however, that matches. However, where a program of matches is scheduled to begin in the afternoon, the Division representative, if requested by the promoter, may approve an early weigh-in time of 6:00 p.m. noon or later the evening before the day before the day of the program of matches. matches if personnel is available. Substitution of a contestant or contestants shall not be allowed after the weigh-in.

(c) Failure of a contestant to be present at the weigh-in at the time and place designated by the Division representative shall result in the following penalties, which are in addition contestant's loss of right to his loss of right to view the weigh-in of his or her opponent: opponent.

- (1) For first occurrence, the contestant shall be penalized twenty five dollars (\$25.00);
- (2) For second occurrence, the contestant shall be penalized fifty dollars (\$50.00);
- (3) The third occurrence shall be penalized by suspending the license of the contestant and not allowing the contestant to engage in the program of matches; and
- (4) The fourth occurrence shall be penalized by revoking the license of the participant.

(d) If the weight of any contestant in a match fails to meet the weight parameters as set forth in Paragraph (a) of this Rule at the time of the official weigh-in, he or she shall have two additional hours to meet the weight parameters provided that: if, at the time of the official weigh in, the weight of any contestant in a match

fails to meet the weight parameters of the rules set forth herein shall have two additional hours to meet such weight parameters.

- (1) No contestants contestant that weighs 147 pounds or less may lose more than two pounds in less than 12 hours of before a match.
- (2) No contestant weighing more than 147 pounds or less than 190 pounds, with the exception of heavyweights, may lose more than three pounds in less than 12 hours of before a match.
- (3) No contestant weighing more than 190 pounds may lose more than four pounds in less than 12 hours before a match.

This Paragraph also applies to second day weigh ins.

- (4) Contestants may not gain weight after the official weigh-ins have begun to make weight parameters during the time of weigh-ins.

(e) At the time of weigh-in, each contestant in a match shall provide to the Division representative for inspection a picture identification issued by a federal, state or local unit of government unit of government, or other governmental authority. The contestant may utilize the passport issued by another state in which he is licensed provided that such passport contains the information as required in this Paragraph:

- (1) Legal name of contestant;
- (2) Ring name of contestant;
- (3) A passport type picture which shows the face of the contestant. Passports issued by states that do not require a picture shall be accompanied by another form of positive identification;
- (4) Address of contestant;
- (5) Age of contestant;
- (6) Date, place, opponent and result of the contestant's professional contests since the issuance of the passport, which entries shall be signed by the Division representative as designated by the rules in this Chapter or the

rules of the jurisdiction in which the match occurred; and

(7) Signature of the contestant and a statement attesting to the validity of the information contained in his passport.

(f) The contestant may shall be required to complete a contestant information form annually which shall be provided by the Boxing Authority Section of the Division. Any contestant who refuses to complete this form shall not engage in any match in North Carolina.

Authority G.S. 143-652.1.

SECTION .0800 - MIXED MARTIAL ARTS

14B NCAC 10 .0801 WEIGH INS-MIXED MARTIAL ARTS

The mixed martial arts weigh-ins ~~must~~ shall be conducted by a Division representative at a place and time designated by the Division in accordance with 14A NCAC 12 .0201, .0301, .0402, .0403 and .0501 the requirements of 14B NCAC 10 .0501, except for the following: following exceptions or additional rules:

(1) All contestants must weigh in. Contestants other than heavyweights, are limited to shorts, shirt and socks.

(2) The scale shall be provided by the promoter and indicate an accurate weight for contestants.

(3)(1) The chart in this Item indicates the weight allowances per weight class. A contestant may fight an opponent above or below his or her weight class. The maximum amount of weight difference between the two contestants shall be decided by lower weight class. Weight allowances permitted between two different weight classes are as follows: Contestants shall be classified by weight and may fight above or below his or her weight class in accordance with Item (1) of this Rule. The maximum amount of weight difference between the two contestants shall be decided by the lower weight class. A contestant shall not be permitted to compete if the difference in weight between the contestants exceeds the difference shown in the following schedule:

Weight class	Weights	Allowances
Straw weight	up to 115 pounds or less	3 pounds
Flyweight	116 to 125 pounds	3 pounds
Bantamweight	126 to 135 pounds	3 pounds
Featherweight	136 to 145 pounds	5 pounds
Lightweight	146 to 155 pounds	5 pounds
Welterweight	156 to 170 pounds	5 pounds
Middleweight	171 to 185 pounds	7 pounds
Light Heavyweight	186 to 205 pounds	7 pounds
Heavyweight	206 to 265 pounds	7 pounds
Super Heavyweight	over 265 pounds	no limit

(4) When a weigh in is conducted the day prior to the event, with the exception of the heavyweight class, all other contestants must weigh in at a second weigh in the next day scheduled by the Division representative within eight hours of the starting time of the event. The contestant may not be more than 13 pounds heavier than their recorded weight from the day prior.

(5)(2) If the weight of any contestant fails to meet the weigh parameters as set forth in Item (1) of this Rule at the time of the official weigh-in, her or she shall have two additional hours to meet the weight parameters provided that:

(a) No contestant, weighing 145 pounds or less, may lose more than two pounds in less than 12 hours ~~of~~ before a contest.

(b) No contestant, weighing ~~more than 145~~ 146 pounds or ~~more~~ less than 186 pounds, may lose more than three pounds in less than 12 hours ~~of~~ before a contest.

(c) No contestant weighing more than 186 pounds may lose more than four pounds in less than 12 hours before a contest. This Item applies to a second day weigh in also. This does not apply to light heavyweight class and above.

(d) Contestants may not gain weight after the official weigh-ins have begun to make weight parameters during the time of weigh-ins.

Authority G.S. 143-652.1.

APPROVED RULES

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

Rules approved by the Rules Review Commission at its meeting on March 16, 2017.

REGISTER CITATION TO THE NOTICE OF TEXT

AGRICULTURE, BOARD OF

<u>Vitamin Assay of Milk Products</u>	02 NCAC 09G .0103	31:05 NCR
<u>Appeals Procedure</u>	02 NCAC 09G .2009*	31:05 NCR

COMMERCE - EMPLOYMENT SECURITY, DIVISION OF

<u>Definitions</u>	04 NCAC 24A .0105*	31:12 NCR
<u>Valid Job Contacts</u>	04 NCAC 24B .0107*	31:12 NCR
<u>Content of Higher Authority Decision</u>	04 NCAC 24C .0506	31:12 NCR
<u>Post-Decision Relief</u>	04 NCAC 24C .0601	31:12 NCR

MEDICAL CARE COMMISSION

<u>Definitions</u>	10A NCAC 13E .0101*	31:06 NCR
<u>Applying for a License to Provide Overnight Respite Services</u>	10A NCAC 13E .0201*	31:06 NCR
<u>Persons Not Eligible for Overnight Respite Services Licenses</u>	10A NCAC 13E .0202*	31:06 NCR
<u>The License</u>	10A NCAC 13E .0203	31:06 NCR
<u>Renewal of License</u>	10A NCAC 13E .0204*	31:06 NCR
<u>Closing of Overnight Respite Services</u>	10A NCAC 13E .0205*	31:06 NCR
<u>Denial and Revocation of License</u>	10A NCAC 13E .0206*	31:06 NCR
<u>Suspension of Admissions</u>	10A NCAC 13E .0207*	31:06 NCR
<u>Appeal of Licensure Action</u>	10A NCAC 13E .0208*	31:06 NCR
<u>Submission of Information to the Division of Health Servi...</u>	10A NCAC 13E .0301*	31:06 NCR
<u>Capacity</u>	10A NCAC 13E .0302*	31:06 NCR
<u>Design and Construction</u>	10A NCAC 13E .0303*	31:06 NCR
<u>Location</u>	10A NCAC 13E .0304*	31:06 NCR
<u>Living Room</u>	10A NCAC 13E .0305*	31:06 NCR
<u>Dining Room</u>	10A NCAC 13E .0306*	31:06 NCR
<u>Kitchen</u>	10A NCAC 13E .0307*	31:06 NCR
<u>Bedrooms</u>	10A NCAC 13E .0308*	31:06 NCR
<u>Bathroom</u>	10A NCAC 13E .0309*	31:06 NCR
<u>Storage Areas</u>	10A NCAC 13E .0310	31:06 NCR
<u>Corridor</u>	10A NCAC 13E .0311	31:06 NCR
<u>Outside Entrance and Exits</u>	10A NCAC 13E .0312*	31:06 NCR
<u>Laundry Room</u>	10A NCAC 13E .0313	31:06 NCR
<u>Floors</u>	10A NCAC 13E .0314	31:06 NCR
<u>Housekeeping and Furnishings</u>	10A NCAC 13E .0315*	31:06 NCR
<u>Fire Safety and Disaster Plan</u>	10A NCAC 13E .0316*	31:06 NCR
<u>Building Service Equipment</u>	10A NCAC 13E .0317	31:06 NCR
<u>Outside Premises</u>	10A NCAC 13E .0318	31:06 NCR
<u>Administrator</u>	10A NCAC 13E .0401*	31:06 NCR
<u>Supervisor-In-Charge</u>	10A NCAC 13E .0402	31:06 NCR

<u>Staff and Staffing</u>	10A NCAC 13E .0403*	31:06 NCR
<u>Training on Cardio-Pulmonary Resuscitation</u>	10A NCAC 13E .0404*	31:06 NCR
<u>Program Policies</u>	10A NCAC 13E .0501*	31:06 NCR
<u>Enrollment of Participants</u>	10A NCAC 13E .0601*	31:06 NCR
<u>Planning Services for Individual Participants</u>	10A NCAC 13E .0602*	31:06 NCR
<u>Medication Administration Policies and Procedures</u>	10A NCAC 13E .0701	31:06 NCR
<u>Medication Administration Competency Evaluation</u>	10A NCAC 13E .0702*	31:06 NCR
<u>Medication Administration</u>	10A NCAC 13E .0703*	31:06 NCR
<u>Food Procurement and Safety</u>	10A NCAC 13E .0801*	31:06 NCR
<u>Food Preparation and Service</u>	10A NCAC 13E .0802	31:06 NCR
<u>Menus</u>	10A NCAC 13E .0803*	31:06 NCR
<u>Food Requirements</u>	10A NCAC 13E .0804	31:06 NCR
<u>Therapeutic Diets</u>	10A NCAC 13E .0805*	31:06 NCR
<u>Assistance with Eating</u>	10A NCAC 13E .0806	31:06 NCR
<u>Accommodation of Participant Needs and Preferences</u>	10A NCAC 13E .0807	31:06 NCR
<u>Activities Program</u>	10A NCAC 13E .0901*	31:06 NCR
<u>Adverse Action on Certification</u>	10A NCAC 13F .1702*	31:06 NCR
<u>Renewal of Administrator</u>	10A NCAC 13F .1703*	31:06 NCR
<u>Qualifications of Administrator</u>	10A NCAC 13G .0401	31:06 NCR
<u>Administrator Approval</u>	10A NCAC 13G .1501*	31:06 NCR
<u>Adverse Action on Administrator</u>	10A NCAC 13G .1502*	31:06 NCR
<u>Renewal of Administrator Approval</u>	10A NCAC 13G .1503*	31:06 NCR
<u>Special Situations</u>	10A NCAC 13P .0203*	31:11 NCR

MENTAL HEALTH, COMMISSION FOR

<u>Operations</u>	10A NCAC 27G .6702*	31:01 NCR
<u>Scope</u>	10A NCAC 27H .0201*	31:01 NCR

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Training Course Enrollment</u>	12 NCAC 09B .0204*	31:06 NCR
<u>Moral Character</u>	12 NCAC 09G .0206*	31:06 NCR
<u>Minimum Training Specifications</u>	12 NCAC 09H .0102*	31:06 NCR
<u>Filing and Fees</u>	12 NCAC 09H .0105*	31:06 NCR

WILDLIFE RESOURCES COMMISSION

<u>General Provisions</u>	15A NCAC 10A .1401*	31:11 NCR
<u>Wildlife Violator Compact Manual</u>	15A NCAC 10A .1402*	31:11 NCR
<u>Wildlife Violator Compact Conditions for Non-Residents</u>	15A NCAC 10A .1403*	31:11 NCR
<u>Wildlife Violator Compact Conditions for Residents</u>	15A NCAC 10A .1404*	31:11 NCR
<u>Reciprocal Recognition of Suspensions</u>	15A NCAC 10A .1405*	31:11 NCR
<u>Appeals</u>	15A NCAC 10A .1406*	31:11 NCR
<u>Big Game Kill Reports</u>	15A NCAC 10B .0113*	31:11 NCR
<u>Wildlife Collectors</u>	15A NCAC 10B .0119*	31:11 NCR
<u>Bear</u>	15A NCAC 10B .0202	31:11 NCR
<u>Deer (White Tailed)</u>	15A NCAC 10B .0203*	31:11 NCR
<u>Wild Turkey</u>	15A NCAC 10B .0209*	31:11 NCR
<u>Crows</u>	15A NCAC 10B .0215*	31:11 NCR
<u>Misuse of Tags</u>	15A NCAC 10B .0406*	31:11 NCR

<u>Reciprocal License Agreement</u>	15A NCAC 10C .0203*	31:11 NCR
<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205*	31:11 NCR
<u>Black Bass</u>	15A NCAC 10C .0305*	31:11 NCR
<u>Crappie</u>	15A NCAC 10C .0306	31:11 NCR
<u>Trout</u>	15A NCAC 10C .0316	31:11 NCR
<u>White Bass</u>	15A NCAC 10C .0318	31:11 NCR
<u>Taking Nongame Fishes for Bait or Personal Consumption</u>	15A NCAC 10C .0402*	31:11 NCR
<u>General Regulations Regarding Use</u>	15A NCAC 10D .0102*	31:11 NCR
<u>Hunting On Game Lands</u>	15A NCAC 10D .0103*	31:11 NCR
<u>Fishing on Game Lands</u>	15A NCAC 10D .0104*	31:11 NCR
<u>New Hanover County</u>	15A NCAC 10F .0314*	31:11 NCR
<u>Montgomery County</u>	15A NCAC 10F .0327*	31:08 NCR
<u>Carteret County</u>	15A NCAC 10F .0330*	31:11 NCR
<u>Possession of Reptiles and Amphibians</u>	15A NCAC 10H .1302*	31:11 NCR

PUBLIC HEALTH, COMMISSION FOR

<u>Engineered Option Permit</u>	15A NCAC 18A .1971*	31:11 NCR
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BARBER EXAMINERS, BOARD OF

<u>Complaints</u>	21 NCAC 06C .0912*	31:11 NCR
<u>Apprentice Barber</u>	21 NCAC 06I .0105	31:11 NCR
<u>Applicants with Military Training and Expertise</u>	21 NCAC 06K .0112*	31:11 NCR
<u>Military Spouses</u>	21 NCAC 06K .0113*	31:11 NCR
<u>Measurements of Barber Shop</u>	21 NCAC 06L .0102	31:12 NCR
<u>Fees</u>	21 NCAC 06N .0101	31:11 NCR
<u>Form Bar-11</u>	21 NCAC 06N .0112*	31:11 NCR
<u>Form Bar-12</u>	21 NCAC 06N .0113*	31:11 NCR
<u>Extensions for Members of the Armed Forces</u>	21 NCAC 06N .0114*	31:11 NCR
<u>General Definitions</u>	21 NCAC 06P .0103	31:11 NCR

CHIROPRACTIC EXAMINERS, BOARD OF

<u>Prepaid Treatment Plans</u>	21 NCAC 10 .0305*	31:05 NCR
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EMPLOYEE ASSISTANCE PROFESSIONALS, BOARD OF

<u>License Application</u>	21 NCAC 11 .0104*	30:12 NCR
<u>Disciplinary Action/Hearing</u>	21 NCAC 11 .0108*	30:12 NCR
<u>Fees</u>	21 NCAC 11 .0111*	30:12 NCR
<u>Penalties</u>	21 NCAC 11 .0112	30:12 NCR

DENTAL EXAMINERS, BOARD OF

<u>Functions Which May Be Delegated</u>	21 NCAC 16G .0101*	31:08 NCR
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MASSAGE AND BODYWORK THERAPY, BOARD OF

<u>Documentation; Referrals</u>	21 NCAC 30 .0504*	31:10 NCR
<u>Board Approval</u>	21 NCAC 30 .0601*	31:10 NCR
<u>Definitions</u>	21 NCAC 30 .0602*	31:10 NCR
<u>Admissions</u>	21 NCAC 30 .0618*	31:10 NCR
<u>Program Requirements</u>	21 NCAC 30 .0620*	31:10 NCR

<u>Learning Resources</u>	21 NCAC 30	.0623*	31:10 NCR
<u>Ethical Requirements in Advertising</u>	21 NCAC 30	.0628*	31:10 NCR
<u>Student Enrollment Agreement</u>	21 NCAC 30	.0629*	31:10 NCR
<u>School Catalog</u>	21 NCAC 30	.0630*	31:10 NCR

PODIATRY EXAMINERS, BOARD OF

<u>Notice of Unlicensed Activity</u>	21 NCAC 52	.0214*	31:12 NCR
<u>Complaints</u>	21 NCAC 52	.0409*	31:12 NCR

REAL ESTATE COMMISSION

<u>Proof of Licensure</u>	21 NCAC 58A	.0101*	31:10 NCR
<u>Broker Name and Address</u>	21 NCAC 58A	.0103*	31:10 NCR
<u>Delivery of Instruments</u>	21 NCAC 58A	.0106*	31:10 NCR
<u>License Application and Fee</u>	21 NCAC 58A	.0302	31:10 NCR
<u>Waiver of 75-hour Prelicensing Education Requirement</u>	21 NCAC 58A	.0304*	31:10 NCR
<u>Firm Licensing</u>	21 NCAC 58A	.0502*	31:10 NCR
<u>License Renewal</u>	21 NCAC 58A	.0503	31:10 NCR
<u>Reinstatement of a License</u>	21 NCAC 58A	.0505*	31:10 NCR
<u>Duplicate License Fee</u>	21 NCAC 58A	.0509	31:10 NCR
<u>Licensing of Persons Licensed in Another Jurisdiction</u>	21 NCAC 58A	.0511*	31:10 NCR
<u>Death or Incapacity of Sole Proprietor</u>	21 NCAC 58A	.0512*	31:10 NCR
<u>Continuing Education Requirement</u>	21 NCAC 58A	.1702*	31:10 NCR
<u>Continuing Education for License Activation</u>	21 NCAC 58A	.1703*	31:10 NCR
<u>Attendance and Participation Requirements</u>	21 NCAC 58A	.1705*	31:10 NCR
<u>Equivalent Credit</u>	21 NCAC 58A	.1708*	31:10 NCR
<u>Extensions of Time to Complete Continuing Education</u>	21 NCAC 58A	.1709*	31:10 NCR
<u>Denial or Withdrawal of Continuing Education Credit</u>	21 NCAC 58A	.1710*	31:10 NCR
<u>Continuing Education Required of Nonresident Brokers</u>	21 NCAC 58A	.1711*	31:10 NCR
<u>Denial or Withdrawal of Postlicensing Education Credit</u>	21 NCAC 58A	.1904*	31:10 NCR
<u>Waiver of 90-Hour Postlicensing Education Requirement</u>	21 NCAC 58A	.1905*	31:10 NCR
<u>Applicability Requirement for Approval</u>	21 NCAC 58C	.0101	31:10 NCR
<u>Application for Approval</u>	21 NCAC 58C	.0102	31:10 NCR
<u>Criteria for Approval</u>	21 NCAC 58C	.0103	31:10 NCR
<u>Scope Duration and Renewal of Approval</u>	21 NCAC 58C	.0104	31:10 NCR
<u>Withdrawal or Denial of Approval</u>	21 NCAC 58C	.0105	31:10 NCR
<u>Use of Examination Performance Data</u>	21 NCAC 58C	.0107	31:10 NCR
<u>Student Evaluations of Instructor Performance</u>	21 NCAC 58C	.0108	31:10 NCR
<u>Applicability</u>	21 NCAC 58C	.0201	31:10 NCR
<u>Original Application Fee</u>	21 NCAC 58C	.0202	31:10 NCR
<u>School Name</u>	21 NCAC 58C	.0203	31:10 NCR
<u>Courses</u>	21 NCAC 58C	.0204	31:10 NCR
<u>Additional Course Offerings</u>	21 NCAC 58C	.0205	31:10 NCR
<u>Administration</u>	21 NCAC 58C	.0206	31:10 NCR
<u>Facilities and Equipment</u>	21 NCAC 58C	.0207	31:10 NCR
<u>Bulletins</u>	21 NCAC 58C	.0208	31:10 NCR
<u>Enrollment Procedure and Contracts</u>	21 NCAC 58C	.0209	31:10 NCR
<u>Admissions Policy and Practice</u>	21 NCAC 58C	.0210	31:10 NCR
<u>Records</u>	21 NCAC 58C	.0211	31:10 NCR

<u>Enforcement of Institutional Standards</u>	21 NCAC 58C .0212	31:10 NCR
<u>Performance Board</u>	21 NCAC 58C .0213	31:10 NCR
<u>Advertising and Recruitment Standards</u>	21 NCAC 58C .0214	31:10 NCR
<u>Changes During the Licensing Period</u>	21 NCAC 58C .0216	31:10 NCR
<u>License Renewal and Fees</u>	21 NCAC 58C .0217	31:10 NCR
<u>Licensing Exam Confidentiality: School Perform/Licensing</u>	21 NCAC 58C .0218	31:10 NCR
<u>Violations of the Americans with Disabilities Act</u>	21 NCAC 58C .0219	31:10 NCR
<u>Student Evaluations of Instructor Performance</u>	21 NCAC 58C .0220	31:10 NCR
<u>Transfer of School Ownership</u>	21 NCAC 58C .0221	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58C .0301	31:10 NCR
<u>Program Structuring and Admission Requirements</u>	21 NCAC 58C .0302	31:10 NCR
<u>Course Content</u>	21 NCAC 58C .0303	31:10 NCR
<u>Course Completion Standards</u>	21 NCAC 58C .0304	31:10 NCR
<u>Course Scheduling</u>	21 NCAC 58C .0305	31:10 NCR
<u>Textbooks</u>	21 NCAC 58C .0306	31:10 NCR
<u>Instructors</u>	21 NCAC 58C .0307	31:10 NCR
<u>Course Completion Reporting</u>	21 NCAC 58C .0309	31:10 NCR
<u>Course Records</u>	21 NCAC 58C .0310	31:10 NCR
<u>Instructional Delivery Methods</u>	21 NCAC 58C .0311	31:10 NCR
<u>Exception for Persons with Disabilities</u>	21 NCAC 58C .0312	31:10 NCR
<u>Notice of Scheduled Courses</u>	21 NCAC 58C .0313	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58C .0601	31:10 NCR
<u>Nature and Scope of Instructor Approval</u>	21 NCAC 58C .0602	31:10 NCR
<u>Application and Criteria for Original Approval</u>	21 NCAC 58C .0603	31:10 NCR
<u>Instructor Performance</u>	21 NCAC 58C .0604	31:10 NCR
<u>Request for Examinations and Video Recordings</u>	21 NCAC 58C .0605	31:10 NCR
<u>Postlicensing Course Reports</u>	21 NCAC 58C .0606	31:10 NCR
<u>Expiration Renewal and Reinstatement of Approval</u>	21 NCAC 58C .0607	31:10 NCR
<u>Denial or Withdrawal of Approval</u>	21 NCAC 58C .0608	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58E .0101	31:10 NCR
<u>Update Course Component</u>	21 NCAC 58E .0102	31:10 NCR
<u>Application for Original Approval</u>	21 NCAC 58E .0103	31:10 NCR
<u>Criteria for Approval of Update Course Sponsor</u>	21 NCAC 58E .0104	31:10 NCR
<u>Student Fee for Update Courses</u>	21 NCAC 58E .0105	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58E .0201	31:10 NCR
<u>Nature and Scope of Approval</u>	21 NCAC 58E .0202	31:10 NCR
<u>Application and Criteria for Original Approval</u>	21 NCAC 58E .0203	31:10 NCR
<u>Active and Inactive Status: Renewal of Approval</u>	21 NCAC 58E .0204	31:10 NCR
<u>Denial or Withdrawal of Approval</u>	21 NCAC 58E .0205	31:10 NCR
<u>Request for a Video Recording</u>	21 NCAC 58E .0206	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58E .0301	31:10 NCR
<u>Elective Course Component</u>	21 NCAC 58E .0302	31:10 NCR
<u>Application for Original Approval</u>	21 NCAC 58E .0303	31:10 NCR
<u>Criteria for Elective Course Approval</u>	21 NCAC 58E .0304	31:10 NCR
<u>Elective Course Subject Matter</u>	21 NCAC 58E .0305	31:10 NCR
<u>Elective Course Instructors</u>	21 NCAC 58E .0306	31:10 NCR
<u>Elective Course Credit Hours</u>	21 NCAC 58E .0307	31:10 NCR

<u>Request for a Video Recording</u>	21 NCAC 58E .0308	31:10 NCR
<u>Student Fees for Elective Courses</u>	21 NCAC 58E .0309	31:10 NCR
<u>Distance Education Courses</u>	21 NCAC 58E .0310	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58E .0401	31:10 NCR
<u>Sponsor Eligibility</u>	21 NCAC 58E .0402	31:10 NCR
<u>Sponsor Name</u>	21 NCAC 58E .0403	31:10 NCR
<u>Advance Approval Required</u>	21 NCAC 58E .0404	31:10 NCR
<u>Continuing Education Coordinator</u>	21 NCAC 58E .0405	31:10 NCR
<u>Course Completion Reporting</u>	21 NCAC 58E .0406	31:10 NCR
<u>Change in Sponsor Ownership</u>	21 NCAC 58E .0408	31:10 NCR
<u>Changes During Approval Period</u>	21 NCAC 58E .0409	31:10 NCR
<u>Course Records</u>	21 NCAC 58E .0410	31:10 NCR
<u>Renewal of Course and Sponsor Approval</u>	21 NCAC 58E .0411	31:10 NCR
<u>Denial or Withdrawal of Approval</u>	21 NCAC 58E .0412	31:10 NCR
<u>Purpose and Applicability</u>	21 NCAC 58E .0501	31:10 NCR
<u>Scheduling</u>	21 NCAC 58E .0502	31:10 NCR
<u>Minimum Class Size</u>	21 NCAC 58E .0503	31:10 NCR
<u>Notice of Scheduled Courses</u>	21 NCAC 58E .0504	31:10 NCR
<u>Advertising, Providing Course Information</u>	21 NCAC 58E .0505	31:10 NCR
<u>Classes Open to All Licensees</u>	21 NCAC 58E .0506	31:10 NCR
<u>Classroom Facilities</u>	21 NCAC 58E .0507	31:10 NCR
<u>Student Check-In</u>	21 NCAC 58E .0508	31:10 NCR
<u>Instructor Conduct and Performance</u>	21 NCAC 58E .0509	31:10 NCR
<u>Monitoring Attendance</u>	21 NCAC 58E .0510	31:10 NCR
<u>Student Participation Standards</u>	21 NCAC 58E .0511	31:10 NCR
<u>Solicitation of Students</u>	21 NCAC 58E .0512	31:10 NCR
<u>Cancellation and Refund Policies</u>	21 NCAC 58E .0513	31:10 NCR
<u>Course Inspections by Commission Representative</u>	21 NCAC 58E .0514	31:10 NCR
<u>Accommodations for Persons with Disabilities</u>	21 NCAC 58E .0515	31:10 NCR
<u>Location</u>	21 NCAC 58G .0102	31:10 NCR
<u>Definitions</u>	21 NCAC 58G .0103*	31:10 NCR
<u>Definitions</u>	21 NCAC 58H .0101*	31:10 NCR
<u>Applicability</u>	21 NCAC 58H .0201*	31:10 NCR
<u>Application for Original Approval of a Public Real Estate...</u>	21 NCAC 58H .0202*	31:10 NCR
<u>Application for Original Licensure of a Private Real Esta...</u>	21 NCAC 58H .0203*	31:10 NCR
<u>School Director</u>	21 NCAC 58H .0204*	31:10 NCR
<u>Private Real Estate School Bulletin</u>	21 NCAC 58H .0205*	31:10 NCR
<u>Approval of Textbooks</u>	21 NCAC 58H .0206*	31:10 NCR
<u>School Advertising and Recruitment Activities</u>	21 NCAC 58H .0207	31:10 NCR
<u>Prelicensing and Postlicensing Course Scheduling and Noti...</u>	21 NCAC 58H .0208	31:10 NCR
<u>Prelicensing and Postlicensing Course Enrollment</u>	21 NCAC 58H .0209	31:10 NCR
<u>Prelicensing and Postlicensing Course Completion Standards</u>	21 NCAC 58H .0210*	31:10 NCR
<u>Prelicensing and Postlicensing Roster Reporting</u>	21 NCAC 58H .0211*	31:10 NCR
<u>School Records</u>	21 NCAC 58H .0212	31:10 NCR
<u>Evaluations of Instructor Performance</u>	21 NCAC 58H .0213*	31:10 NCR
<u>Expiration and Renewal of a School Approval or License</u>	21 NCAC 58H .0214*	31:10 NCR
<u>Denial, Withdrawal, or Termination of School Approval or ...</u>	21 NCAC 58H .0215*	31:10 NCR

APPROVED RULES

<u>Prelicensing, Postlicensing, and Update Course Instructor...</u>	21 NCAC 58H .0301*	31:10 NCR
<u>Application and Criteria for Original Prelicensing, Postl...</u>	21 NCAC 58H .0302*	31:10 NCR
<u>Denial or Withdrawal of Instructor Approval</u>	21 NCAC 58H .0303*	31:10 NCR
<u>Instructor Conduct and Performance</u>	21 NCAC 58H .0304	31:10 NCR
<u>Digital Video Recordings</u>	21 NCAC 58H .0305	31:10 NCR
<u>Renewal and Expiration of Instructor Approval</u>	21 NCAC 58H .0306*	31:10 NCR
<u>Applicability</u>	21 NCAC 58H .0401*	31:10 NCR
<u>Application for Original Approval of Continuing Education...</u>	21 NCAC 58H .0402*	31:10 NCR
<u>Continuing Education Coordinator</u>	21 NCAC 58H .0403*	31:10 NCR
<u>Renewal of Sponsor Approval</u>	21 NCAC 58H .0404	31:10 NCR
<u>Denial or Withdrawal of Sponsor Approval</u>	21 NCAC 58H .0405*	31:10 NCR
<u>Approval and Renewal of Elective Course</u>	21 NCAC 58H .0406	31:10 NCR
<u>Continuing Education Elective Course Requirements</u>	21 NCAC 58H .0407	31:10 NCR
<u>Commission Created Update Courses</u>	21 NCAC 58H .0408*	31:10 NCR
<u>Records and Commission Review</u>	21 NCAC 58H .0409	31:10 NCR
<u>Continuing Education Course Scheduling and Notification</u>	21 NCAC 58H .0410*	31:10 NCR
<u>Continuing Education Course Attendance</u>	21 NCAC 58H .0411	31:10 NCR
<u>Continuing Education Roster Reports and Certificates</u>	21 NCAC 58H .0412	31:10 NCR
<u>Continuing Education Course Cost, Cancellation, and Refunds</u>	21 NCAC 58H .0413	31:10 NCR
<u>Advertising</u>	21 NCAC 58H .0414	31:10 NCR

STATE HUMAN RESOURCES COMMISSION

<u>Permanent and Time-Limited Appointment</u>	25 NCAC 01C .0402*	31:05 NCR
<u>Reduction in Force</u>	25 NCAC 01C .1004*	31:05 NCR
<u>Compensation Plan Philosophy and Plan</u>	25 NCAC 01D .0101*	31:05 NCR
<u>Salary Structures</u>	25 NCAC 01D .0102*	31:05 NCR
<u>Pay Status</u>	25 NCAC 01D .0105*	31:05 NCR
<u>Total State Service Defined</u>	25 NCAC 01D .0112*	31:05 NCR
<u>Break in Service</u>	25 NCAC 01D .0114*	31:05 NCR
<u>Initial Employment</u>	25 NCAC 01D .0201*	31:05 NCR
<u>Promotion</u>	25 NCAC 01D .0301*	31:05 NCR
<u>Demotion and Reassignment</u>	25 NCAC 01D .0401*	31:05 NCR
<u>Reallocation</u>	25 NCAC 01D .0608*	31:05 NCR
<u>Lateral Transfer</u>	25 NCAC 01D .0901*	31:05 NCR
<u>Reinstatement</u>	25 NCAC 01D .1001*	31:05 NCR
<u>Severance Salary Continuation Policy</u>	25 NCAC 01D .2701	31:05 NCR
<u>Severance Salary Continuation Eligibility</u>	25 NCAC 01D .2702*	31:05 NCR
<u>Performance Management Covered Employees</u>	25 NCAC 01O .0108*	31:05 NCR

ADMINISTRATIVE HEARINGS, OFFICE OF

<u>Rights and Responsibilities of Parties</u>	26 NCAC 03 .0120*	31:12 NCR
<u>General</u>	26 NCAC 03 .0502*	31:12 NCR

The following Rules are subject to the next Legislative Session. (see G.S. 150B-21.3(b1))

MEDICAL CARE COMMISSION

<u>EMS Provider License Requirements</u>	10A NCAC 13P .0204*	31:06 NCR
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WILDLIFE RESOURCES COMMISSION**Striped Bass**

15A NCAC 10C .0314 31:11 NCR

TITLE 02 - DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**02 NCAC 09G .0103 VITAMIN ASSAY OF MILK PRODUCTS**

Assays of vitamin content shall be made as required by the PMO. All assay costs shall be paid by the milk product processor.

History Note: Authority G.S. 106-267;

Eff. February 1, 1976;

Amended Eff. May 1, 1983; March 12, 1981;

Readopted Eff. April 1, 2017.

02 NCAC 09G .2009 APPEALS PROCEDURE

Contested cases concerning the interpretation and enforcement of the rules in this Section shall be governed by Article 3 of G.S. 150B.

History Note: Authority G.S. 106-266.31;

Eff. February 1, 1987;

Transferred from 15A NCAC 18A .1209 Eff. May 1, 2012;

Readopted Eff. April 1, 2017.

TITLE 04 - DEPARTMENT OF COMMERCE**04 NCAC 24A .0105 DEFINITIONS**

(a) In addition to the terms defined in G.S. 96, the following definitions apply whenever these terms are used in this Chapter:

- (1) "Additional claim" means the reopening of a valid initial claim for unemployment insurance benefits after a claimant, as defined in Item (16) of this Rule, ceased filing a weekly certification as defined in G.S. 96-14.9, for one or more weeks due to intervening employment. The first week of eligibility filed after a claim has been reopened shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.
- (2) "Agent state" means any state from which, or through which a claimant files a claim for benefits from another state.
- (3) "Adjudicator" means an employee of DES appointed to conduct an informal investigation and render a determination as required by G.S. 96-15(b).
- (4) "Appeal" means a submission by a party with statutory appeal rights requesting the Appeals Section of DES or the Board of Review to review a determination or decision that is adverse to that party.
- (5) "Appeals Referee" or "Hearing Officer" means an attorney appointed to hear or decide an

appeal from a determination by an adjudicator and issues involving the rights, status, and liabilities of an employer pursuant to the provisions of G.S. 96-4(q) or 96-15(c).

"Appeals Section" means the section within DES where Appeals Referees conduct quasi-judicial administrative evidentiary hearings and make decisions in contested cases for unemployment insurance benefits. The Appeals Section also consists of support staff that assists Appeals Referees.

(6) "Application for a position" means supplying the information required by an employer to place an individual in a particular position or opening. Such information may include proof of the qualifications or license required by the position or opening, employment history, and personal information, such as full name, Social Security Number or other identification number, telephone number, and current address. An application for a position may be accomplished in whatever manner acceptable to an employer, including the completion of a designated form, the provision of a written resume, or verbally.

(7) "Authorized Representative" means an individual authorized by an employer or employing unit to act on the employer or employing unit's behalf before DES.

(8) "Base period" means as defined in G.S. 96-1(b)(3). Calendar quarters are January through March, April through June, July through September, and October through December.

(9) "Benefit week" means a period of seven consecutive calendar days, ending at 11:59 pm on Saturday.

(10) "Benefit wage credits" means wages used to determine a claimant's monetary eligibility for benefits. Benefit wage credits consist of the wages a claimant received or should have received during the claimant's base period of employment and to include those wages that were awarded and paid to the claimant after the base period pursuant to a court order; a National Labor Relations Board determination; another adjudicative agency; or by private agreement, consent, or arbitration for loss of pay because of discharge. DES shall credit the awarded wages to the quarter in which the wages should have been paid.

(11) "Board of Review" means as defined in G.S. 96-15.3 and is the body that conducts "higher authority review" of appeals arising from the

decisions of the Division, tax liability hearings, and labor disputes. The Board of Review is also referred to as the "Board" or "BOR."

(13) "Calendar Period" means the 52 week period beginning with the first day of a week in which an individual first files a valid claim for benefits and registers for work. The week begins on the first Sunday preceding the initial claim filed and ends the following year at 11:59 p.m. on Saturday.

(14) "Charging cycle" means each calendar quarter following the prior reporting cycle, during which the employer's account is assessed and charged for erroneous unemployment insurance benefit payments resulting from untimely or inadequate responses, as defined in 04 NCAC 24D .0301, from the employer to particular Requests for Separation Information during that charging cycle if the employer met or exceeded the adequacy threshold in the prior reporting cycle.

(15) "Chief Appeals Referee" includes the Chief Appeals Referee's designee, unless otherwise stated.

(16) "Claimant" means an individual who files an unemployment insurance benefits claim for payments as provided in G.S. 96-14.1.

(17) "Clear and convincing evidence" means evidence indicating that the thing to be proved is highly probable or reasonably certain.

(18) "Customarily," as the term is used in G.S. 96-16, means during at least 75 percent of the calendar years of an observation interval.

(19) "Day" means a calendar day.

(20) "Delivery service" means an authorized designated carrier pursuant to Rule 4(j) of the North Carolina Rules of Civil Procedure and 26 U.S.C. 7502(f)(2).

(21) "DES website" means the internet address found at www.des.nc.gov.

(22) "Due diligence" means the measure of carefulness, precaution, attentiveness, and good judgment as to be expected from, and exercised by a reasonable and prudent person under the particular circumstances.

(23) "Effective date of a claim" means either the benefit year beginning on the Sunday preceding the payroll week ending date if the claimant is payroll attached, or the benefit year beginning on the Sunday of the calendar week within which a claimant filed a valid claim for benefits and registered for work if the claimant is not payroll attached.

(24) "Electronic transmission" means transmission by facsimile or internet.

(25) "Equity and good conscience" means fairness as applied to a given set of circumstances.

(26) "Fault" means an error or defect of judgment or of conduct; any deviation from prudence or duty resulting from inattention, incapacity, perversity, bad faith, or mismanagement.

(27) "Good cause" means a legally sufficient reason.

(28) "In-person/telephone hearing" means an administrative hearing before the Appeals Section, Board of Review, or other designated Hearing Officer where at least one party or witness appears in-person, and another party or witness appears by telephone.

(29) "Interstate benefit payment plan" means the plan approved by the Interstate Conference of Employment Security Agencies under which benefits may be paid to unemployed claimants absent from the state (or states) where benefit wage credits accumulated. This Rule incorporates the United States Department of Labor's Interstate Benefit Payment Plan, Interstate Agreements, ET Handbook No. 392 app. B (2d ed. 1997) by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

(30) "Interstate claimant" means a claimant who claims benefits under the unemployment insurance law of one or more liable states through the facilities of an agent state, or directly with the liable state. The term "interstate claimant" shall not include any claimant who customarily commutes from a residence in an agent state to work in a liable state unless the Division finds that this exclusion would create an undue hardship.

(31) "Labor dispute" means a dispute between an employer and its employees about wages, hours, working conditions, or issues concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or condition of employment, between those who could be concerned in the controversy.

(32) "Last known address" means the most recent address provided to DES by the claimant or taxpayer located in its official record, except that DES shall update addresses maintained in its official records by referring to data accumulated and maintained in the United States Postal Service (USPS) National Change of Address database that retains change of address information (NCOA Database). If the claimant or taxpayer's name and last known address in DES's official records match the claimant or taxpayer's name and previous mailing address contained in the NCOA database, the new address in the NCOA database is the taxpayer's last known address.

This Rule incorporates the United States Postal Service's National Change of Address Database by reference and includes subsequent amendments and editions of the referenced material in accordance with G.S. 150B-21.6. Copies of the incorporated material are located at 700 Wade Avenue, in Raleigh, North Carolina, and may be obtained by request at no cost to the public by contacting DES as specified under 04 NCAC 24A .0201.

(33) "Legal representative" means a licensed attorney or a person supervised by a licensed attorney.

(34) "Liable state" means any state against which a claimant files a claim for benefits through another state.

(35) "Observation interval" means an interval of time including the four consecutive calendar years preceding the calendar year in which an application for a seasonal determination is made pursuant to G.S. 96-16. In the case of a newly liable employer or an employer whose operational activities have changed, the observation interval may be less than four calendar years.

(36) "Party with appeal rights" means a party who has the right to appeal an unfavorable determination or decision pursuant to G.S. 96-4(q) and G.S. 96-15.

(37) "Public employment office" means a local office managed and operated by the Division of Workforce Solutions (DWS) of the North Carolina Department of Commerce.

(38) "Regularly recurring" means a period or periods of operational activity and shall be deemed regularly recurring if, during at least 75 percent of the calendar years in the observation interval, the beginning and ending dates of the period or periods do not vary more than four weeks.

(39) "Reopened claim" means the resumption of a valid initial claim following a break in filing weekly certifications during a benefit year and the break was caused by reasons other than intervening employment. The first week of eligibility following the effective date of the reopened claim shall constitute a waiting period week if all eligibility requirements set forth in G.S. 96-14.9 are met.

(40) "Reporting cycle" means the 52 week period beginning August 1st and ending July 31st the following year in which the employer's account is examined and recorded for any inadequate responses to Requests for Separation Information (NCUI 500AB).

(41) "State" means any of the 50 states in the United States and includes the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

(42) "Wages paid" means both wages actually received by a worker, and wages "constructively paid." Wages are constructively paid when they are credited to the account of, or set apart for a worker without any substantial restriction as to the time or manner of payment or condition upon which payment is to be made, and shall be made available so that the worker may draw upon them at any time, and payment brought within the worker's control and disposition, although not then actually reduced to possession.

(43) "Wages payable" means wages earned but not paid.

(44) "Weekly period" means a seven day period beginning at 12:00 a.m. Sunday and ending on the following Saturday at 11:59 p.m.

(45) "Week of unemployment" includes any week of unemployment as defined in the law of the liable state from which benefits for the week are claimed.

History Note: Authority G.S. 84; 96-1; 96-4; 96-9.2; 96-9.6; 96-14.1; 96-14.9; 96-15; 96-17; 96-20;

Eff. July 1, 2015;

Temporary Amendment Eff. March 1, 2016;

Temporary Amendment Expired December 10, 2016;

Amended Eff. April 1, 2017.

04 NCAC 24B .0107 VALID JOB CONTACTS

(a) Each claimant who has registered for work and filed a claim for unemployment insurance benefits shall actively seek work and make the minimum valid job contacts per week as required under G.S. 96-14.9(e).

(b) For job contacts conducted on an employer's or employment website:

- (1) a valid job contact is a submitted application for a position as defined in 04 NCAC 24A .0105(7);
- (2) each separate and distinct position requiring a separate application, even if with the same employer, shall count as a separate job contact; and
- (3) upon request by DES, each claimant shall provide verifiable proof of their job contacts, and such proof may include the claimant's record of the name of the employer, the URL or address of the website, the job title of the position for which the claimant applied, the date of submission, and the confirmation number or email.

(c) For job contacts conducted by electronic mail (e-mail) or facsimile:

- (1) a valid job contact is a message sent to a valid e-mail address or facsimile number of an employer, or their designee, for the sole purpose of obtaining employment with that employer; and
- (2) upon request by DES, each claimant shall provide verifiable proof of their job contacts, and such proof may include the claimant's

record of the name of the employer, the e-mail address or facsimile number used for the contact, the name and job title of the person contacted, and the date of the contact.

(d) For job contacts conducted by telephone:

- (1) a valid job contact is a verbal conversation with an employer, or their designee, for the sole purpose of obtaining employment with that employer.
- (2) upon request by DES, each claimant shall provide verifiable proof of their job contacts, and such proof may include the claimant's record of the name of the employer, the telephone number used for the contact, the name and job title of the person contacted, and the date of the contact; and
- (3) a message left on an answering service or a voice-mailbox shall not be a valid job contact for purposes of G.S. 96-14.9(e)(3).

(e) For job contacts conducted in person:

- (1) a valid job contact is a meeting with an employer, or their designee, for the sole purpose of obtaining employment with that employer;
- (2) upon request by DES, each claimant shall provide verifiable proof of their job contacts, and such proof may include the claimant's record of the name of the employer, the location at which the contact occurred, the name and job title of the person with whom the claimant met, and the date of the contact; and
- (3) an in-person contact with an employer on a single day shall be considered a single contact for purposes of G.S. 96-14.9(e)(3), unless multiple applications are submitted that day for separate and distinct positions as described in Subparagraphs (b)(1) and (2) of this Rule.

(f) The following shall be considered invalid job contacts:

- (1) Duplicative job contacts. A contact is duplicative when a claimant contacts the same employer regarding the same position or opening more than once during the same week with no change in the result of the contact. The following are examples of a change in the result of contact:
 - (A) a contact to or from an employer that occurs after an initial contact, involves scheduling an interview, and an interview is in fact scheduled; or
 - (B) a contact to an employer in response to a request for additional information.
- (2) Contact with an employer for a job that the claimant would be unable to accept if offered. A "job that a claimant would be unable to accept if offered" means a position for which the claimant lacks the necessary knowledge, ability, or skill required for that job, as stated in the job posting or as required by applicable licensing authority.

(g) Initial registration via NCWorks shall be considered a valid job contact for the week during which the registration was completed.

(h) Union members.

- (1) If a claimant customarily obtains employment through a union with a hiring hall, then weekly contact with the same shall satisfy the requirements of G.S. 96-14.9(e). Upon request by DES, each claimant shall provide verifiable proof of their job contacts, and such proof may include their union number, the address where they made contact as required by their union's reporting requirements, the name and job title of the person with whom they spoke, and the dates on which they made contact. Claimants who are members of a union with a hiring hall shall provide information about their union's reporting requirements to DES upon request.
- (2) If a claimant is a member of a non-hiring hall union, then contact with the same shall be considered a single valid job contact for the week in which it occurred. Upon request by DES, each claimant shall provide verifiable proof of their job contacts, and such proof may include the claimant's record of the name of the union agent or applicable union, the address of the union or where contact was made, the name of the person with whom the claimant spoke, and the date of the contact.

(i) Longshoremen registered with their union satisfy the requirements of G.S. 96-14.9(e) by submitting on a weekly basis their union number, the address where they made contact as required by their union's reporting requirements, the name and job title of the person with whom they spoke, and the dates on which they made contact. Longshoreman shall provide information about their union's reporting requirements to DES upon request.

(j) An application to a blind job advertisement shall be considered a valid job contact for each separate and distinct position sought or employer contacted. In addition to the requirements set forth above in this Section, the claimant shall also retain, and provide to DES upon request, a copy of the blind advertisement. A copy of the blind advertisement shall be accepted by DES in lieu of the employer name, the name of the person contacted, and the job title of the person contacted if these are unavailable.

*History Note: Authority G.S. 96-4; 96-14.9;
Temporary Adoption Eff. March 1, 2016;
Temporary Adoption Expired December 10, 2016;
Eff. April 1, 2017.*

04 NCAC 24C .0506 CONTENT OF HIGHER AUTHORITY DECISION

The Board of Review shall issue a written Higher Authority Decision that includes the following:

- (1) the names of the members of the Board of Review who participated in the review;
- (2) findings of fact, conclusions of law, and the decision of the Board of Review;

- (3) instructions for filing an appeal of the Higher Authority Decision to the superior court and the date the Higher Authority Decision was mailed; and
- (4) notice that claims filed on or after June 30, 2013 shall be subject to repayment of overpayment of benefits resulting from any decision that is later reversed on appeal.

History Note: Authority G.S. 96-4; 96-11.4; 96-15;
Eff. July 1, 2015;
Temporary Amendment Eff. March 1, 2016;
Temporary Amendment Expired December 10, 2016;
Amended Eff. April 1, 2017.

04 NCAC 24C .0601 POST-DECISION RELIEF

History Note: Authority G.S. 96-4; 96-11.4; 96-15;
Eff. July 1, 2015;
Temporary Repeal Eff. March 1, 2016;
Temporary Repeal Expired December 10, 2016;
Repealed Eff. April 1, 2017.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13E .0101 DEFINITIONS

The following definitions apply throughout this Subchapter:

- (1) "Accident" means an unexpected, unintentional, or irregular event that results in injury or illness to a participant or suspected injury or illness to a participant.
- (2) "Overnight respite services" is defined in G.S. 131D-6.1 and shall not exceed 14 consecutive days or more than 60 total calendar days per individual participant in a 365-day period.
- (3) "Participant" means the recipient of the overnight respite services.
- (4) "Personal care" means tasks such as assistance with bathing, dressing, grooming, toileting, eating, ambulation, and transferring.
- (5) "Program" means a facility certified by the Department of Health and Human Services, Division of Aging and Adult Services, to provide adult day care services pursuant to G.S. 131D-6 and 10A NCAC 06R, adult day health services pursuant to 10A NCAC 06S, or both.
- (6) "Responsible party" means the caretaker with primary day-to-day responsibility for a participant.
- (7) "Supervision" means to oversee, manage, and direct for the determination and provision of assistance to a participant.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0201 APPLYING FOR A LICENSE TO PROVIDE OVERNIGHT RESPITE SERVICES

(a) Except as otherwise provided in Rule .0202 of this Section, the Division of Health Service Regulation (DHSR) shall issue an overnight respite services license to any program that meets the following requirements:

- (1) submission of an initial license application, available at <https://www.ncdhhs.gov/dhsr/acls/acforms.html> at no cost that includes the following:
 - (A) applicant information;
 - (B) ownership information; and
 - (C) the program's capacity and scope of services;
- (2) payment of the non-refundable license fee required by G.S. 131D-6.1; and
- (3) compliance with the provisions of G.S. 131D-6.1 and the rules of this Subchapter.

(b) An application for a license to provide overnight respite services shall not be reviewed or approved unless the applicant is certified by the Division of Aging and Adult Services as a program as defined in Rule .0101 of this Subchapter.

(c) Following review of the initial license application, program policies in accordance with Rule .0501 of this Subchapter, and the Construction Section's recommendation for use, a pre-approval visit shall be made by the DHSR Adult Care Licensure Section or its consultant. The Adult Care Licensure Section shall notify, in writing, the Division of Aging and Adult Services and the applicant of the decision to approve or deny a license to provide overnight respite services as a part of the adult day care program.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0202 PERSONS NOT ELIGIBLE FOR OVERNIGHT RESPITE SERVICES LICENSES

A license for an overnight respite services program shall not be issued to an applicant:

- (1) whose license for any overnight respite services program was revoked until one year after the date of revocation; or
- (2) whose admissions for any overnight respite services program were suspended until six months after the suspension is lifted.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0203 THE LICENSE

(a) The license shall be posted in a prominent location, accessible to public view, within the overnight respite portion of the facility.

(b) The license shall be in effect for 12 months from the date of issuance unless revoked for cause or voluntarily or involuntarily terminated.

(c) The license is not transferable or assignable.

(d) The license shall be terminated when the program is terminated.

History Note: Authority G.S. 131D-2.4; 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0204 RENEWAL OF LICENSE

(a) The license shall be renewed annually, except as otherwise provided in Rule .0205 of this Section, if the licensee submits an application for renewal and the Department determines that the licensee complies with the provisions of G.S. 131D-6.1 and the rules of this Subchapter. When violations of the rules of this Subchapter are documented and have not been corrected prior to expiration of the license, the Department may approve an extension of a plan of correction or may revoke the license for cause.

(b) In determining whether to renew a license under G.S. 131D-6.1 or extend a plan of correction, the Department shall take into consideration the following factors:

- (1) the compliance history of the adult day care program;
- (2) the compliance history of overnight respite services;
- (3) the extent to which the conduct of a related licensed program for overnight respite services is likely to affect the quality of care at the applicant service; and
- (4) the hardship on residents of the applicant service if the license is not renewed.

(c) The license renewal application shall be sent to the applicant by the Department at least 60 days prior to expiration of the license.

(d) The license renewal application shall include the following:

- (1) applicant information;
- (2) ownership information;
- (3) the program's capacity and scope of services; and
- (4) invoice for the annual nonrefundable renewal licensure fee in accordance with G.S. 131D-6.1(i).

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0205 CLOSING OF OVERNIGHT RESPITE SERVICES

If a licensee plans to close its overnight respite services, the licensee shall provide written notification of the planned closing to the Division of Health Service Regulation, Adult Care Licensure Section at 2708 Mail Service Center, Raleigh, NC 27699-2708; the Division of Aging and Adult Services at 2101 Mail Service Center, Raleigh, NC 27699-2101; and the participants and their responsible parties at least 30 days prior to the planned closing. Written notification shall include the date of closing.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0206 DENIAL AND REVOCATION OF LICENSE

(a) The Division of Health Service Regulation shall deny any licensure application if the applicant fails to comply with G.S. 131D-6.1 and the rules of this Subchapter.

(b) A license may be revoked by the Division in accordance with G.S. 131D-2.7 and G.S. 131D-6.1.

(c) The Division shall notify the applicant of a denial of its application or revocation of its license by certified mail stating the reasons for the denial or revocation.

(d) When an overnight respite service provider receives a notice of revocation, the administrator shall inform each participant and the participant's responsible party of the notice and the reasons for the revocation.

History Note: Authority G.S. 131D-2.7; 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0207 SUSPENSION OF ADMISSIONS

(a) The Division of Health Service Regulation may suspend the admission of participants to overnight respite services when warranted under the provisions of G.S. 131D-6.1 and G.S. 131D-2.7.

(b) The Division shall notify the overnight respite service licensee by certified mail of the decision to suspend admissions. Such notice shall include:

- (1) the period of the suspension;
- (2) factual allegations;
- (3) citation of statutes and rules alleged to be violated; and
- (4) notice of the licensee's right to a contested case hearing regarding the suspension.

(c) The suspension shall be effective on the date specified in the notice of suspension. The suspension shall remain effective for the period specified in the notice or until the overnight respite service demonstrates to the Division that conditions are no longer detrimental to the health and safety of the participants based on the factors set forth in G.S. 131D-2.7(d)(2).

(d) The overnight respite service shall not admit any participants during the effective period of the suspension.

(e) Any action taken by the Division to revoke a license for overnight respite services shall be accompanied by a suspension of admissions.

History Note: Authority G.S. 131D-2.7; 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0208 APPEAL OF LICENSURE ACTION

The licensee may appeal any decision of the Division to deny or revoke a license or any decision to suspend admissions of participants by making such an appeal in accordance with G.S. 150B.

History Note: G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0301 SUBMISSION OF INFORMATION TO THE DIVISION OF HEALTH SERVICE REGULATION CONSTRUCTION SECTION

(a) Prior to operation, an applicant for a license to provide overnight respite services shall submit the following documents to the Division of Health Service Regulation (DHSR) Construction Section:

- (1) an approval letter from the local zoning jurisdiction for the proposed location;
- (2) if an existing structure, a photograph of each side of the existing structure and at least one of each of the interior spaces; and
- (3) a set of building plans of each floor level indicating:
 - (A) the layout of all rooms;
 - (B) room dimensions (including closets);
 - (C) door widths (exterior, bedroom, bathroom, and kitchen doors);
 - (D) window sizes and window sill heights;
 - (E) type of construction; and
 - (F) the proposed participant bedroom locations including the number of occupants in each bedroom.

(b) The Construction Section shall review the documents and notify the applicant by letter of changes that shall be made to the building to meet the standards established in this Section. The letter shall also contain a list of final documentation required from the local fire marshal, local building code official, and county health department that shall be submitted upon completion of any required changes to the building or completion of construction.

(c) In order to maintain compliance with the standards established in this Section, any changes made during construction that were not proposed during the document review required by Paragraph (b) of this Rule shall require the approval of the Construction Section.

(d) Upon receipt of the final documentation required by Paragraph (b) of this Rule, the Construction Section shall review the information and may either approve the overnight respite services program for construction based on documentation or make an on-site visit. If an on-site visit is made, the Construction Section shall inspect the construction and shall notify the applicant by letter of any changes that shall be made to the construction. When the Construction Section determines that the completed construction is in compliance with the standards established in this Section, it shall notify the Division of Health Service Regulation Adult Care Licensure Section of its recommendation for use.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0302 CAPACITY

(a) Pursuant to G.S. 131D-6.1(c)(8), the Division of Health Service Regulation shall not approve a capacity of greater than six participants for an overnight respite services program. For the purposes of this Rule, "capacity" means the maximum number of participants that the overnight respite services program is licensed to house at any given time.

- (b) An overnight respite services program shall not exceed the capacity shown on its license.
- (c) Prior to an increase in capacity by adding rooms, altering rooms, or changing use of space, the overnight respite services program shall submit a request for capacity increase and two building plans of each floor to the Construction Section. One plan shall indicate the current use of rooms in the existing building. The other plan shall indicate the proposed use of rooms in the existing building and its addition, alteration, or change in use of space. For an addition to an existing building, the building plans shall also indicate how the addition will be tied into the existing building and any proposed changes to the building structure.
- (d) When the overnight respite services program increases its capacity by the addition to or alteration of an existing building, the entire overnight respite services program shall comply with the North Carolina Fire Prevention Code, which is incorporated herein by reference including subsequent amendments and editions. Copies of this code may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of eighty-five dollars (\$85.00) or accessed electronically free of charge at http://codes.iccsafe.org/app/book/toc/2012/North_Carolina/Fire/index.html.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0303 DESIGN AND CONSTRUCTION

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

- (1) "facility" means a building or portion of a building housing an overnight respite services program as defined in G.S. 131D-6.1(a);
- (2) "proposed facility" means the new construction of a building for a facility, an addition or alteration to an existing building for a facility, or the change in use of a building for a facility;
- (3) "existing facility" means a currently licensed facility and a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, prior to the effective date of this Rule; and
- (4) "new facility" means a proposed facility that will be built according to building plans approved by the Construction Section for compliance with the standards established in this Section, on or after the effective date of this Rule.

(b) The physical plant requirements for each facility shall be applied as follows:

- (1) A new facility shall meet the standards established in this Section.
- (2) An existing facility shall meet the standards established in this Section that were in existence at the time of change in use of space, construction, addition, alteration, or repair.
- (3) An existing building converted from another use that a program intends to use for an

overnight respite services program shall meet all the requirements of a new facility as indicated in Subparagraph (1) of this Paragraph.

(c) All new construction, additions, or alterations for a new facility shall meet the requirements of the North Carolina State Building Codes, which are incorporated herein by reference including subsequent amendments and editions. Copies of these codes may be purchased from the International Code Council online at <http://www.iccsafe.org/Store/Pages/default.aspx> at a cost of five hundred twenty-seven dollars (\$527.00) or accessed electronically free of charge at <http://codes.iccsafe.org/North%20Carolina.html>. All new construction, additions, or repairs of an existing facility shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(d) A facility shall be constructed, equipped, and maintained to comply with the standards established in this Section for the capacity indicated on its license.

(e) The Construction Section may grant an equivalency to allow an alternate design or functional variation from the requirements of the rules contained in this Section. For the purposes of this Rule, an "equivalency" is a Construction Section-approved alternate design and functional variation to a requirement contained in the rules of this Section that meets the intent of the rule requirement but does not reduce the safety and operational effectiveness of the facility design and layout. If granted, the equivalency shall apply to a specific facility. A program shall be granted an equivalency if:

- (1) the overnight respite services program submits a written equivalency request to the Construction Section indicating:
 - (A) the rule requirement that will not be met;
 - (B) the justification for the equivalency; and
 - (C) how the proposed equivalency meets the intent of the corresponding rule requirement; and
- (2) the program receives a written approval of the equivalency from the Construction Section.

(f) If any of the rules, codes, or standards contained in this Section conflict, the most restrictive requirement shall apply.

(g) For an existing facility whose license is revoked or suspended by the Division of Health Service Regulation pursuant to G.S. 131D-6.1(g)(2) for at least 60 days, the facility shall meet the requirements of a new facility as required by Subparagraph (b)(1) of this Rule prior to being relicensed.

(h) Prior to commencement of construction or change in use of space, any program intending to offer overnight respite care services that is planning new construction, an addition or alteration to an existing building, or a change in use of space shall submit building plans and other documents to the Construction Section as specified in Rule .0301 of this Section.

(i) If the building to be used for a facility is two or more stories in height, it shall meet the following additional requirements:

- (1) construction shall not exceed the allowable area for occupancy in the North Carolina State Building Code;

(2) participants shall be housed on the level of the principal exterior door as defined in Rule .0312(c) of this Section; and

(3) participant-use areas shall be located on the level of the principal exterior door.

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

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

(l) Elevation changes in the floor are not permitted in participant-use areas.

(m) The door width shall be a minimum of two feet and six inches in the kitchen, dining room, living room, bedrooms, and bathrooms.

(n) Windows shall be operable and shall be maintained operable. For the purposes of this Rule, "operable" means a window that may be opened and shut to allow outdoor-air ventilation. To inhibit participant elopement from any window, the window opening may be restricted to a six-inch opening.

(o) Before starting any construction or alterations, the overnight respite services program shall consult with the local building code official for information about required permits and construction requirements.

(p) The facility shall comply with the sanitation rules of the North Carolina Division of Public Health, Environmental Health Services Section, which are incorporated herein by reference including subsequent amendments and editions. The "Rules Governing the Sanitation of Residential Care Facilities," 15A NCAC 18A .1600 are available for inspection at the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Services Section, 5605 Six Forks Road, Raleigh, North Carolina 27609. Copies may be obtained from the Environmental Health Services Section, 1632 Mail Service Center, Raleigh, NC 27699-1632 at no cost or can be accessed electronically free of charge at <http://ehs.ncpublichealth.com/docs/rules/294306-4-1600.pdf>.

(q) The facility shall have the following inspection reports available for review upon request by the Construction Section:

- (1) a current sanitation inspection report from the county health department; and
- (2) a current fire safety inspection report from the local fire marshal.

(r) The building housing a facility shall be equipped with a fire alarm system with pull stations on each floor and sounding devices that are audible throughout the building. The fire alarm system shall be equipped to transmit an automatic signal to the local emergency fire department dispatch center, either directly or through a central station monitoring company connection. The fire alarm system shall be installed in accordance with National Fire Protection Association (NFPA) 72, which is incorporated herein by reference including subsequent amendments and editions and may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of ninety six dollars and 50 cents (\$96.50). Underwriters Laboratory (U.L.) listed heat detectors are required in attics and basements and shall be connected to the fire alarm system. These heat detectors shall be interconnected and provided with battery backup. Corridors shall be equipped with smoke detectors that are connected to the fire alarm system.

(s) A building housing an overnight respite services program or an adult day care or adult health care program shall be equipped with a wet pipe sprinkler system in accordance with NFPA 13, which is incorporated herein by reference including subsequent amendments and editions and may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02269 at the cost of one hundred and three dollars (\$103.00).

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0304 LOCATION

(a) A program offering overnight respite care services shall be in a location approved by local zoning boards.

(b) The site of a proposed facility where overnight respite care services are to be provided shall:

- (1) be accessible by public roads that shall be maintained for motor vehicles access;
- (2) be accessible to fire fighting and other emergency services;
- (3) have a water supply, sewage disposal system, garbage disposal system, and trash disposal system approved by the local health department having jurisdiction;
- (4) comply with local ordinances; and
- (5) be free from exposure to waste material that contaminates the air, soil, or water.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0305 LIVING ROOM

(a) Each overnight respite care program shall have a living area with not less than 40 square feet of floor area per participant.

(b) The living area for the overnight respite care program required by Paragraph (a) of this Rule may be combined with the adult day care program or adult day health program activities and craft areas only after the Division of Aging and Adult Services of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(d) for an adult day care program and 10A NCAC 06S .0301 for an adult day health program are met.

(c) The living room shall have windows with views to the outdoors. The gross window area shall not be less than eight percent of the floor area required by Paragraph (a) of this Rule.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0306 DINING ROOM

(a) Each overnight respite services program shall have a dining area with not less than 20 square feet of floor area per participant. The dining area may be used for other activities during the day.

(b) The dining area for the overnight respite care program required by Paragraph (a) of this Rule may be combined with the adult day care program or adult day health program activities and craft areas only after the Division of Aging and Adult Services of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(d) for an

adult day care program and 10A NCAC 06S .0301 for an adult day health program are met.

(c) When the dining area is used in combination with a kitchen, an area five feet wide shall be allowed as work space between the kitchen and dining areas. The work space shall not be used as the dining area.

(d) The dining room shall have windows with views to the outdoors. The gross window area shall not be less than eight percent of the floor area required by Paragraph (a) of this Rule.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0307 KITCHEN

(a) The kitchen shall have a floor area of not less than 120 square feet. The kitchen may be shared with the adult day care or adult day health program.

(b) The cooking unit shall be mechanically ventilated to the exterior or be equipped with an unvented recirculation fan provided with a filter as required by the manufacturer's instructions for vent-less use.

(c) The kitchen floor shall have a non-slippery and water-resistant covering.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0308 BEDROOMS

(a) There shall be bedrooms sufficient in number and size to meet the individual needs of the participant according to their age and gender.

(b) A room used as a bedroom shall meet the requirements of this Rule and be approved by the Construction Section.

(c) A room accessed only through a bathroom, kitchen, or another bedroom shall not be approved for a participant's bedroom.

(d) Bedrooms occupied by one participant shall be provided with not less than 100 square feet of floor area, including vestibule, closet, or wardrobe space. Bedrooms occupied by two participants shall be provided with not less than 160 square feet of floor area, including vestibule, closet, or wardrobe space.

(e) The total number of participants assigned to a bedroom shall be based on the square footage requirements of Paragraph (d) of this Rule as approved by the Construction Section for that bedroom.

(f) A bedroom shall not be occupied by more than two participants.

(g) Each participant bedroom shall have one or more windows with views to the outdoors. The gross window area shall be equal to at least eight percent of the floor space required by Paragraph (d) of this Rule. The windows shall have a maximum sill height of 44 inches.

(h) Bedroom closets or wardrobes shall be large enough to provide each participant with a minimum of 22 cubic feet of clothing storage, one-half of which shall be for hanging clothes with an adjustable-height hanging bar.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0309 BATHROOM

(a) An overnight respite services program shall have one bathroom for each six or fewer respite participants. A bathroom shall contain a toilet, a lavatory, and one of the following:

- (1) a roll-in shower designed and equipped for unobstructed shower chair entry and use;
- (2) a bathtub accessible on three sides; or
- (3) a manufactured walk-in bathtub or a similar manufactured bathtub designed for transfer of participants into the bathtub that is accessible on one short side and one long side of the bathtub.

(b) The bathroom required by Paragraph (a) of this Rule may be shared with the adult day care program or adult day health program only after the Division of Aging and Adult Services of the Department of Health and Human Services determines, in writing, that the requirements of 10A NCAC 06R .0401(g) for an adult day care facility and 10A NCAC 06S .0301 for an adult day health facility are met.

(c) A bathroom shall be designed to provide privacy. A bathroom with two or more toilets shall have privacy partitions or curtains for each toilet. Each bathtub or shower shall have privacy partitions or curtains.

(d) The entrance to the bathroom shall not be through a kitchen, another participant's bedroom, or another bathroom.

(e) The bathroom shall be located so that there is no more than 40 feet between any participant's bedroom door and a participant-use bathroom door.

(f) Hand grips shall be installed at all toilets, bathtubs, and showers used by participants.

(g) Nonskid surfacing or strips shall be installed to the floor or bottom of showers and bathtubs.

(h) A bathroom shall have mechanical ventilation at the rate of two cubic feet per minute for each square foot of floor area. The mechanical ducted vent shall be vented directly to the outdoors.

(i) The bathroom floor shall have a non-slippery water-resistant covering.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0310 STORAGE AREAS

(a) Storage areas shall be provided for the separate storage of clean linens, soiled linens, food and food service supplies, and household supplies and equipment.

(b) Cleaning agents, bleaches, pesticides, and other substances that may be hazardous if ingested, inhaled, or handled shall be stored in locked areas separate from other materials.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0311 CORRIDOR

(a) Corridors shall be lighted as required by Rule .0317(e)(3) of this Section.

(b) Corridors shall be free of equipment and other obstructions.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0312 OUTSIDE ENTRANCE AND EXITS

(a) Each overnight respite services program shall have at least two exit doors on all floor levels. If there are only two exit doors, the exit doors shall be located and constructed to minimize the possibility that both may be blocked by a fire or other emergency condition.

(b) One exterior door shall have a minimum width of three feet. Another exterior door shall have a minimum width of two feet and eight inches. For the purposes of this Rule, an "exterior door" means a door used by a participant to enter and exit the building to and from the outdoors.

(c) At least one principal exterior door for the participants' use shall be at grade level or accessible by a ramp with a one inch rise for each 12 inches of ramp length. For the purposes of this Rule, a "principal exterior door" means a door that is used by participants to access the vehicular pick-up and drop-off area. If the overnight respite services program serves any participant who must have physical assistance with evacuation, the building shall have two exterior doors at grade level or accessible by a ramp.

(d) All exit door locks shall be easily operable, by a single hand motion, from the inside at all times without keys. Deadbolts or turn buttons on the inside of exit doors shall be disabled.

(e) Exit doors shall be free of all obstructions or impediments to allow for full instant use in case of fire or other emergency.

(f) Steps, porches, stoops, and ramps shall be provided with handrails or guardrails.

(g) In each overnight respite services program with at least one participant who is determined by a physician or appropriate licensed health professional or is otherwise known to be disoriented or who wanders, each exit door for participant-use shall be equipped with a sounding device that is activated when the door is opened. The sound shall be of sufficient volume that it can be heard by staff. If a central system of remote sounding devices is provided, the control panel for the system shall be located in the office area or in a location accessible only to staff authorized by the administrator to operate the control panel.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0313 LAUNDRY ROOM

If the facility uses laundry equipment, the equipment shall not be located in the living, dining, or bedroom areas.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0314 FLOORS

(a) All floors shall be of smooth, non-skid material and shall be cleanable.

(b) Scatter or throw rugs shall not be used.

(c) All floors shall be kept free of damage.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0315 HOUSEKEEPING AND FURNISHINGS

(a) Each overnight respite services program shall:

- (1) have walls, ceilings, and floors or floor coverings kept clean, well maintained, and free of damage;
- (2) have no lingering odors;
- (3) have furniture clean and free of damage;
- (4) have a North Carolina Environmental Health Services Section approved sanitation classification at all times;
- (5) be maintained in an uncluttered, clean, and orderly condition, free of all obstructions and hazards;
- (6) have a supply of bath soap, clean towels, washcloths, sheets, pillow cases, blankets, and additional coverings adequate for participant use on hand at all times;
- (7) make available the following items as needed but shall not charge the participant's personal funds for the cost of these items:
 - (A) protective sheets and clean, absorbent, soft, and smooth pads;
 - (B) bedpans, urinals, hot water bottles, and ice bags; and
 - (C) bedside commodes, walkers, and wheelchairs;
- (8) have a television and radio, each in good working order;
- (9) have curtains, draperies, shades, or blinds at all windows in participant-use areas to provide for participant privacy;
- (10) have recreational equipment, supplies for games, books, magazines, and a current newspaper available for participants;
- (11) have a clock that has numbers at least 1½ inches tall in an area commonly used by the participants; and
- (12) have at least one working telephone that does not depend on electricity or cellular service to operate.

(b) Each bedroom shall have the following furnishings for each participant:

- (1) beds equipped with box springs and mattress, solid link springs and no-sag innerspring, or a foam mattress. A hospital bed shall be provided as needed. A water bed may be allowed if requested by a participant and permitted by the overnight respite services program. Each bed shall have the following:
 - (A) at least one pillow with clean pillow case;
 - (B) clean top and bottom sheets on the bed, changed at least once a week; and
 - (C) clean bedspread and other clean coverings as needed;
- (2) a bedside-type table;
- (3) a chest of drawers or bureau for a single participant or a double chest of drawers or double dresser for two participants when not provided as built-ins;
- (4) a wall or dresser mirror;
- (5) a minimum of one comfortable chair per participant, high enough from the floor for easy rising;
- (6) additional chairs available, as needed, for use by visitors;
- (7) a clean towel, wash cloth, and towel bar within the bedroom or adjoining bathroom; and
- (8) a wall-mounted light overhead of the bed or a lamp with a switch within reach of a person lying on the bed. The light shall provide a minimum of 30 foot-candle power of illumination for reading.

(c) The living room shall have living room furnishings for the comfort of participants with coverings that are cleanable.

(d) The dining room shall have the following furnishings:

- (1) tables and chairs to seat all participants eating in the dining room; and
- (2) chairs that are sturdy, non-folding, without rollers unless retractable or on front legs only, and designed to minimize tilting.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0316 FIRE SAFETY AND DISASTER PLAN

(a) Fire extinguishers shall be provided that meet these requirements:

- (1) one five-pound or larger (net charge) "A-B-C" type centrally located;
- (2) one five-pound or larger "A-B-C" or CO₂ type located in the kitchen; and
- (3) at any other location as required by the North Carolina Fire Prevention Code, which is incorporated herein by reference including subsequent amendments and editions. The availability and cost of the Code is set forth in Rule .0302 of this Section.

(b) All fire safety requirements required by city or county ordinances shall be met.

(c) A written fire evacuation plan that includes a diagram and that has the approval of the local fire marshal shall be prepared and posted in a central location on each floor. The plan shall be reviewed with each participant on enrollment and shall be a part of the orientation for new staff.

(d) There shall be at least four rehearsals of the fire evacuation plan each year on each shift. Records of rehearsals shall be maintained for three years. The records shall include the date and time of the rehearsals, staff members present, and a description of what the rehearsal involved.

(e) A written disaster plan that has the written approval of, or has been documented as submitted to, the local emergency management agency and the local agency designated to coordinate special needs sheltering during disasters shall be prepared and updated annually and shall be maintained in the program offering overnight respite care services.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0317 BUILDING SERVICE EQUIPMENT

(a) The building and all fire safety, electrical, mechanical, and plumbing equipment shall be maintained in a safe and operating condition.

(b) There shall be a central heating system sufficient to maintain 75 degrees F (24 degrees C) under winter design conditions. Built-in electric heaters, if used, shall be installed or protected so as to avoid hazards to participants and room furnishings. Unvented fuel burning room heaters and portable electric heaters shall be prohibited.

(c) Air conditioning shall provide conditions not to exceed 81 degrees F (27 degrees C) under summer design conditions.

(d) The hot water tank shall be of such size to provide as much hot water as is needed by the kitchen, bathrooms, and laundry. The hot water temperature at all fixtures used by participants shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).

(e) All participant-use areas shall be lighted for the safety and comfort of the participants. The minimum lighting required is:

- (1) 30 foot-candle of light at floor level in living rooms, dining rooms, bedrooms, and bathrooms;
- (2) 10 foot-candle of light for general lighting; and
- (3) one foot-candle of light at the floor for corridors at night.

(f) Fireplaces, fireplace inserts, and wood stoves shall be designed or installed so as to avoid a burn hazard to participants. Fireplace inserts and wood stoves must be Underwriters Laboratories (U.L.) listed.

(g) Gas logs may be installed if they are of the vented type, installed according to the manufacturers' installation instructions, approved by the local building code official, and protected by a guard or screen to prevent participants and furnishings from burns.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0318 OUTSIDE PREMISES

(a) The outside grounds of the program shall be maintained in a clean and safe condition.

(b) If the facility has a fence around the premises, the fence shall not prevent participants from exiting or entering freely and shall not be hazardous.

(c) Outdoor stairways and ramps shall be illuminated by no less than five foot candles of light at grade level.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0401 ADMINISTRATOR

(a) An administrator shall be responsible for the operations of the program offering overnight respite care services.

(b) At all times there shall be one administrator or supervisor-in-charge who is responsible for assuring that all required duties are carried out and for assuring that a staff member is present on-site and available to the program participants.

(c) The administrator shall:

- (1) be at least 21 years old;
- (2) be a high school graduate or certified under the General Educational Development (GED) Program;
- (3) cooperate with inspectors and DSHR employees in assuring compliance with G.S. 131D-6.1 and the rules of this Subchapter;
- (4) have a tuberculin skin test within 12 months prior to hire date and annually thereafter;
- (5) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256;
- (6) have documented evidence of managing or supervising personal care to others for at least six months from a current or previous employer; and
- (7) be able to implement all accident, fire safety, and emergency procedures for the protection of the participants of the overnight respite services program.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0402 SUPERVISOR-IN-CHARGE

(a) The supervisor-in-charge is responsible to the administrator for the operation of the overnight respite services program in the absence of the administrator.

(b) The supervisor-in-charge shall meet the same requirements as the administrator as set forth in Rule .0401(c) of this Section.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0403 STAFF AND STAFFING

(a) Each staff person shall:

- (1) have a job description that reflects actual duties and responsibilities determined by the program and shall be signed by the administrator and the employee;
- (2) have a tuberculin skin test within 12 months prior to hire and annually thereafter;
- (3) be able to implement all of the program's policies and procedures as defined in Rule .0501 of this Subchapter and accident, fire safety, and emergency procedures for the protection of the participants;
- (4) be informed of the confidential nature of participant information and protect and preserve the information from unauthorized use and disclosure;
- (5) not hinder or interfere with the exercise of the rights as defined by program policy;

(6) have no substantiated findings listed on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256;

(7) have a statewide criminal background check, upon hire, of the past five years in accordance with G.S. 143B-932; and

(8) cooperate with inspectors and the monitoring and licensing agencies in complying with the rules of this Subchapter.

(b) Any staff member left in charge of the care of participants shall be 18 years or older.

(c) The staffing pattern shall be adequate to meet the needs of each participant, with at least one staff present at all times qualified to administer medications as defined by Rule .0702 of this Subchapter and trained to provide personal care and supervision to current participants.

(d) Services required beyond personal care and supervision shall not be provided unless staff satisfies the license requirements applicable to such services.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0404 TRAINING ON CARDIO-PULMONARY RESUSCITATION

At least one staff person shall be on the premises at all times, when participants are present, who has completed within the last 24 months a course on cardio-pulmonary resuscitation and choking management, including the Heimlich maneuver, provided by the American Heart Association, American Red Cross, National Safety Council, American Safety and Health Institute, Medic First Aid, or a trainer with documented certification as a trainer on these procedures from one of these organizations.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0501 PROGRAM POLICIES

(a) Each program shall have enrollment policies. Enrollment policies shall be in writing as a part of the program policies and shall define the population served. These policies shall serve as the basis for determining who will be accepted into the program and for planning activities appropriate for the participants. The policies shall prevent enrolling people whose needs cannot be met by the planned activities and services offered and shall provide for discharge of participants whose needs can no longer be met or who can no longer be cared for safely. If the program serves semi-ambulatory or non-ambulatory persons as defined by 10A NCAC 06R .0201, it shall be stated in the enrollment criteria.

(b) The program policies shall also contain:

- (1) a discharge policy outlining:
 - (A) the criteria for discharge;
 - (B) notification procedures for discharge;
 - (C) the timeframe and procedures for notifying the applicant, family member, or other caregiver of discharge; and
 - (D) referral or follow-up procedures;

- (2) medication policies and procedures as specified in Section .0700 of this Subchapter;
- (3) a description of participant's rights;
- (4) grievance policies and procedures for families;
- (5) the advance directives policy;
- (6) non-discrimination policies;
- (7) a procedure to maintain confidentiality;
- (8) a policy on reporting suspected abuse or neglect;
- (9) a policy on reporting of participant accidents or incidents to family members or medical providers;
- (10) a policy on infection control and universal precautions;
- (11) a policy on missing participants;
- (12) a policy on identification and supervision of participants who wander; and
- (13) inclement weather policies.

(c) At enrollment or in the initial interview, the program policies shall be discussed with the applicant, responsible party or other caregiver and a copy of the program policies shall be provided.

(d) Documentation of, receipt of, and agreement to abide by the program policies by the applicant, responsible party, or other caregiver shall be obtained by the program and kept in the participant's file.

(e) All program policies shall be maintained on site and available for inspection by Division of Health Service Regulation employees.

(f) The program shall implement all program policies.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0601 ENROLLMENT OF PARTICIPANTS

(a) Prior to enrollment the applicant, responsible party, or other caregiver shall have a personal interview with a program staff member. During the interview, the staff shall complete initial documentation identifying the following:

- (1) social and medical care needs;
- (2) spiritual, religious, or cultural needs; and
- (3) whether the program can meet the applicant's expressed needs.

The staff person doing the interviewing shall sign the assessment of needs and the applicant, responsible party, or other caregiver shall sign the application for enrollment. These signed documents shall be obtained before the individual's first day of attendance as a participant in the program and shall be maintained in the participant's record.

(b) Any adult (18 years of age or over) who, because of a physical condition or mental disability, needs a substitute home for purpose of respite for the caregiver may be enrolled for overnight respite services when, in the opinion of the caregiver, family, participant, physician, appropriate licensed health professional, or social worker and the administrator, the services and accommodations of the facility will meet the respite needs of the participant.

(c) Individuals shall not be admitted:

- (1) for treatment of mental illness or alcohol or drug abuse;

- (2) for maternity care;
- (3) for professional nursing care under continuous medical supervision;
- (4) for lodging, when the personal assistance and supervision offered for the participant are not needed; or
- (5) who pose a threat to the health or safety of others.

(d) A medical examination report signed by a physician or appropriate licensed health professional completed within the prior three months, shall be obtained by the program at the time of enrollment. The report must be updated annually no later than the anniversary date of the initial report.

(e) The program shall assure that the participant's physician or appropriate licensed health professional is contacted for orders for medications, treatments, and special diets if current physician orders are not part of the medical examination report required in Paragraph (d) of this Rule for inclusion in the participant's record. Prior to or the day of admission, the participant's physician or appropriate licensed health professional shall be contacted for clarification of orders, if orders are not clear or complete.

(f) The program shall assure that the participant has been tested for tuberculosis disease within the past 12 months of each admission for overnight respite services in accordance with the NC Division of Public Health's Tuberculosis Policy Manual, incorporated herein by reference including any subsequent amendments and editions, and shall be free of active tuberculosis. This manual may be accessed free of charge at <http://epi.publichealth.nc.gov/cd/lhds/manuals/tb/toc.html>.

History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.

10A NCAC 13E .0602 PLANNING SERVICES FOR INDIVIDUAL PARTICIPANTS

(a) At enrollment of a new participant, the program shall perform an assessment and written service plan for the individual. The assessment shall address the individual's ability to perform activities of daily living and need for supervision while in the program. The mental and physical health status of the individual shall also be assessed. The service plan shall be signed and dated by the administrator or designee. The health component of the service plan shall be written and signed by a registered nurse.

(b) In developing the written service plan, the program shall include input from the participant, responsible party, other caregiver and other agency professionals with knowledge of the individual's needs. The service plan shall be based on strengths, needs, and abilities identified in the assessment. The assessment and service plan shall be reviewed to assure continued accuracy at each admission for overnight respite services. The service plan shall include:

- (1) the needs and strengths of the participant;
- (2) the interests of the participant;
- (3) the service goals and objectives of care for the participant while in the overnight respite program;
- (4) the type of interventions to be provided by the program in order to reach desired outcomes;

responsible party or individuals designated by the responsible party shall sign the participant out.

(k) The participant's responsible party or his or her designated representative shall be contacted and informed of the need to remove the participant from the program if one or more of the following conditions exists:

- (1) the participant's condition is such that he or she is a danger to himself or herself, or poses a direct threat to the health of others, as documented by a physician or appropriate licensed health professional; or
- (2) the safety of individuals in the facility is threatened by the behavior of the participant, as documented by the facility.

Documentation of the emergency discharge shall be retained on file in the facility.

(l) After the participant has left the program or died, the program shall maintain the participant's record in the facility for one year, and then stored for two more years.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0701 MEDICATION ADMINISTRATION POLICIES AND PROCEDURES

There shall be written policies and procedures developed and implemented regarding:

- (1) medication administration;
- (2) documentation of medication administration;
- (3) maintenance of documentation;
- (4) documentation and reporting of medication errors; and
- (5) medication storage and disposition.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0702 MEDICATION ADMINISTRATION COMPETENCY EVALUATION

(a) Validation of each staff person's competency to administer medications shall be completed prior to administering medications and shall include:

- (1) documentation by a registered nurse pursuant to G.S. 90 Article 9A or a licensed pharmacist pursuant to G.S. 90 Article 4A of a clinical skills validation on the Medication Administration Skills Validation Form. Copies of this form may be accessed electronically free of charge at <https://www.ncdhhs.gov/dhsl/acls/acforms.html#medtest>;
- (2) successful completion of a standardized written exam established by the Division of Health Service Regulation; or
- (3) being listed as a medication aide on the NC Medication Aide Registry pursuant to G.S. 131E-270 and 10A NCAC 13O .0201.

(b) The program shall ensure that a licensed health professional who is authorized to dispense, prescribe, or administer

medications is available for consultation with staff. All such consultations shall be documented in the participant's record.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0703 MEDICATION ADMINISTRATION

(a) Medications shall be administered according to current physician's or appropriate licensed health professional's orders and the participant's medication schedule. The medication schedule shall list all medications with dosages and times that medications are to be administered.

(b) A record of all medication given to each participant shall be accurate and include the following:

- (1) the participant's name;
- (2) the name, dosage, quantity, and route of the medication;
- (3) instructions for giving medication;
- (4) the date and time medication is administered; and
- (5) the name or initials of person giving the medication. If initials are used, a signature for those initials shall be documented and maintained in this record.

(c) Medications shall be kept in the original pharmacy containers in which they were dispensed. The containers shall be labeled with the participant's full name, the name and strength of the medicine, and dosage and instructions for administration. Medicines shall be kept in a locked location.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0801 FOOD PROCUREMENT AND SAFETY

(a) The kitchen, dining, and food storage areas shall be clean and maintained in a sanitary condition in accordance with Rules Governing the Sanitation of Residential Care Facilities (15A NCAC 18A .1600) as promulgated by the North Carolina Division of Public Health, Environmental Health Services Section, which are incorporated herein by reference including subsequent amendments and editions.

(b) All food and beverages shall be procured, stored, prepared, or served by the facility under sanitary conditions in accordance with Rules Governing the Sanitation of Residential Care Facilities (15A NCAC 18A .1600).

(c) All meat served to participants shall have been processed at a plant approved by the United States Department of Agriculture (USDA).

(d) There shall be at least a three-day supply of perishable food and a five-day supply of non-perishable food on site, as indicated on the menus prepared as set forth in Rule .0802 of this Section, for both regular and therapeutic diets.

History Note: Authority G.S. 131D-6.1;

Eff. April 1, 2017.

10A NCAC 13E .0802 FOOD PREPARATION AND SERVICE

- (a) Staff, space, and equipment shall be provided for safe and sanitary food storage, preparation, and service.
- (b) Table service shall include a napkin and non-disposable place setting consisting of at least a knife, fork, spoon, plate, and beverage containers. Exceptions may be made on an individual basis and shall be based on documented needs or preferences of the participant.
- (c) If participants require assistance with eating, food shall be maintained at serving temperature until assistance is provided.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0803 MENUS

- (a) Menus shall be prepared according to the U.S. Department of Health and Human Services (HHS) and the U.S. Department of Agriculture (USDA) Dietary Guidelines for Americans, which is incorporated by reference with all subsequent amendments and editions and is available at no cost at <http://www.health.gov/dietaryguidelines>.
- (b) Menus shall be maintained in the kitchen and identified as to the current menu day, and cycle for any given day for guidance of food service staff.
- (c) Any substitutions made in the menu shall be of equal nutritional value, appropriate for therapeutic diets, and documented to indicate the foods actually served to participants.
- (d) Menus shall be planned to take into account the food preferences and customs of the participants.
- (e) A licensed dietitian or nutritionist, pursuant to G.S. 90, Article 25, shall plan or review all menus, including all therapeutic diets. The facility shall maintain verification of the licensed dietitian or nutritionist's approval of the therapeutic diets, including an original signature by the licensed dietitian or nutritionist and the licensure number of the licensed dietitian or nutritionist.
- (f) The facility shall have a matching therapeutic diet menu for all physician or appropriate licensed health professional ordered therapeutic diets, for guidance of food service staff.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0804 FOOD REQUIREMENTS

- (a) A minimum of three meals a day shall be served.
- (b) Foods and beverages that are appropriate to overnight respite participants' diets shall be offered or made available to overnight respite participants as snacks between each meal for a total of three snacks per day and shall be shown on the menu as snacks.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0805 THERAPEUTIC DIETS

- (a) All therapeutic diet orders, including thickened liquids, shall be in writing from the participant's physician or appropriate licensed health professional.
- (b) Where applicable, the therapeutic diet order shall be specific to calorie, gram, or consistency, such as for calorie-controlled

American Diabetic Association diets, low sodium diets, or thickened liquids, unless there are written orders that include the definition of any therapeutic diet identified in the facility's therapeutic menu approved by a licensed dietitian or nutritionist.

(c) The facility shall maintain an accurate and current listing of overnight respite participants with physician or appropriate licensed health professional ordered therapeutic diets for guidance of food service staff.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0806 ASSISTANCE WITH EATING

- (a) Staff shall provide assistance with eating as needed.
- (b) Food shall be maintained at serving temperature until assistance with eating is provided.
- (c) Participants needing assistance with eating shall be assisted upon receipt of the meal and the assistance shall be unhurried and in a manner that maintains or enhances each participant's dignity.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0807 ACCOMMODATION OF PARTICIPANT NEEDS AND PREFERENCES

Variations from the required three meals to meet individualized needs or preferences of participants shall be documented in the participant's record.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13E .0901 ACTIVITIES PROGRAM

- (a) There shall be a program of activities designed to promote the participants' active involvement with each other, their families, and the community.
- (b) If there is a question about a participant's ability to participate in an activity, the participant, the participant's physician or appropriate licensed health professional, family, or responsible party shall be consulted to obtain a statement regarding the participant's capabilities.

*History Note: Authority G.S. 131D-6.1;
Eff. April 1, 2017.*

10A NCAC 13F .1702 ADVERSE ACTION ON CERTIFICATION

- (a) The Department shall deny, suspend, or revoke the certification of an administrator if the administrator or applicant administrator:
 - (1) has not completed the continuing education credits required by Rule .1703 of this Section;
 - (2) has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow certification:
 - (A) the date of conviction;

(B) the circumstances surrounding the committing of the crime, if known;

(C) the nexus between the criminal conduct of the person and the duties of an administrator; and

(D) the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed;

(3) has been convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow certification:

(A) the date of conviction;

(B) the circumstances surrounding the committing of the crime, if known;

(C) the nexus between the criminal conduct of the person and the duties of an administrator; and

(D) the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed;

(4) was the administrator of an adult care home or family care home whose license was summarily suspended pursuant to G.S. 131D-2.7(c) or a notice of revocation of the facility's license was issued pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration the length of time the administrator was serving in that capacity at the facility and the nexus between the reason for the summary suspension or revocation of the facility's license and the job duties of the administrator in deciding whether to deny, suspend, or revoke the certification of an administrator;

(5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any observable or documented condition, such as dementia or other disease condition known to result in irreversible cognitive deterioration or drug or alcohol dependency, that impairs the individual in such a way that it endangers the health, safety, or welfare of residents;

(6) tested positive for a controlled substance or refused to consent to drug testing according to G.S. 131D-45;

(7) prior or subsequent to applying for administrator certification, has a finding on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256; or

(8) fails to report any arrest or conviction for a felony or misdemeanor to the Department within ten days after such arrest or conviction.

(b) The Department shall suspend the certification of an administrator who has been arrested because of alleged criminal conduct, if the relationship between the alleged criminal conduct and the administrator's duties indicates a need to seek action in order to further protect facility residents pending adjudication by a court. Serving as an administrator while the administrator's certification is suspended shall be grounds for revocation of certification. Examples of criminal conduct the Department may consider in relation to the administrator's duties include fraud, physical assault, theft, abuse, neglect, exploitation, and drug diversion.

History Note: Authority G.S. 90-288.18; 131D-2.16; 131D-2.18; 131D-4.3; 143B-165;

Eff. April 1, 2017.

10A NCAC 13F. 1703 RENEWAL OF ADMINISTRATOR CERTIFICATION

(a) The Department shall renew an administrator's certification at the end of the year following the year of initial certification if the administrator submits documentation of completed coursework related to long term care management or the care of aged and disabled persons dated and issued by the course provider after certification. The required number of hours of coursework shall be prorated by the Department based on 30 hours of required continuing education biennially and the number of months from the date of the administrator's initial certification until December 31 of the next year following issuance.

(b) The Department shall continue to renew an administrator's certification biennially, pursuant to G.S. 90-288.15, based on an expiration date of December 31. For each renewal following initial renewal the administrator shall submit documentation totaling 30 hours of completed coursework related to long term care management or the care of aged and disabled persons dated and issued by the course provider within the current two-year certification period and a renewal fee of thirty dollars (\$30.00) pursuant to G.S. 90-288.15.

(c) For the purposes of this Rule, examples of coursework related to long term care management or the care of aged and disabled persons include financial management, human resource management, medication administration, dementia care, diabetic care, managing aggressive behaviors, and infection control.

History Note: Authority G.S. 90-288.15; 90-288.15A; 131D-2.16; 131D-4.3; 143B-165;

Eff. April 1, 2017.

10A NCAC 13G .0401 QUALIFICATIONS OF ADMINISTRATOR

History Note: Authority G.S. 131D-2; 143B-153;

Eff. January 1, 1977;

Readopted Eff. October 31, 1977;

Amended Eff. July 1, 1990; September 1, 1987; April 1, 1987;

April 1, 1984;

ARRC Objection Lodged January 18, 1991;

Amended Eff. August 1, 1991;

Repealed Eff. April 1, 2017.

10A NCAC 13G .1501 ADMINISTRATOR APPROVAL

(a) Each family care home shall have an administrator that has been approved by the Department pursuant to this Rule.

(b) Applicant administrators shall meet the following qualifications:

- (1) be 21 years of age or older;
- (2) provide a satisfactory criminal background report by providing to the Department the submissions required by:
 - (A) the State Repository of Criminal Histories, if the applicant has been a resident of this State for five years or more; or
 - (B) both the State and National Repositories of Criminal Histories, if the applicant has been a resident of this State for less than five years;
- (3) complete an approved administrator-in-training program listed on the website at <http://ncdhhs.gov/dhsr/acls/adminguidelines.html> and consisting of a minimum of 20 hours of instruction in N.C. Assisted Living laws and statutes, human resources, and business management, and a minimum of 100 hours of on-the-job training in an assisted living facility; complete with 75 percent accuracy a written examination administered by the Department within 12 months of completing the administrator-in-training program; and
- (4) be at least a high school graduate or certified under the GED Program.
- (5)

(c) For the purpose of this Rule, a satisfactory criminal background report means:

- (1) no conviction by any jurisdiction of a felony for which prison time was served unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and job duties; and
 - (D) the prison, jail, probation, parole, rehabilitation and employment records of the person since the date the crime was committed;
- (2) no conviction by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;

- (C) the nexus between the criminal conduct of the person and job duties; and
- (D) the prison, jail, probation, parole, rehabilitation and employment records of the person since the date the crime was committed.

History Note: Authority G.S. 131D-2.16; 131D-4.3; 43B-165; Eff. April 1, 2017.

10A NCAC 13G .1502 ADVERSE ACTION ON ADMINISTRATOR APPROVAL

(a) The Department shall deny, suspend, or revoke the approval of an administrator if the administrator or applicant administrator:

- (1) has not completed the continuing education credits required by Rule .1503 of this Section;
- (2) has been convicted by any jurisdiction of a felony unless rights of citizenship have been restored and all of the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and the duties of an administrator; and
 - (D) the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed;
- (3) is convicted by any jurisdiction of a misdemeanor unless all terms of the judgment imposed for said misdemeanor have been met and the following have been considered and determined by the Department to allow approval:
 - (A) the date of conviction;
 - (B) the circumstances surrounding the committing of the crime, if known;
 - (C) the nexus between the criminal conduct of the person and the duties of an administrator; and
 - (D) the prison, jail, probation, parole, rehabilitation, and employment records of the person since the date the crime was committed;
- (4) was the administrator of an adult care home or family care home whose license was summarily suspended pursuant to G.S. 131D-2.7(c) or a notice of revocation of the facility's license was issued pursuant to G.S. 131D-2.7(b). In these circumstances, the Department shall take into consideration the length of time the administrator was serving in that capacity at the facility and the nexus between the reason for the summary suspension or revocation of the

facility's license and the job duties of the administrator in deciding whether to deny, suspend, or revoke the approval of an administrator;

(5) is unable to perform as administrator with reasonable skill and safety to residents by reason of any observable or documented condition, such as dementia or other disease or condition known to result in irreversible cognitive deterioration or drug or alcohol dependency, that impairs the individual in such a way that it endangers the health, safety, or welfare of residents;

(6) tested positive for a controlled substance or refused to consent to drug testing according to G.S. 131D-45;

(7) prior or subsequent to applying to be an administrator, has a finding on the North Carolina Health Care Personnel Registry pursuant to G.S. 131E-256; or

(8) fails to report any arrest or conviction for a felony or misdemeanor to the Department within 10 days after such arrest or conviction.

(b) The Department shall suspend the approval of an administrator who has been arrested because of alleged criminal conduct, if the relationship between the alleged criminal conduct and the administrator's duties indicates a need to seek action in order to further protect facility residents pending adjudication by a court. Serving as an administrator while the administrator's approval is suspended shall be grounds for revocation of approval. Examples of criminal conduct the Department may consider in relation to the administrator's duties include fraud, physical assault, theft, abuse, neglect, exploitation, and drug diversion.

History Note: Authority G.S. 131D-2.16; 131D-2.18; 131D-4.3; 143B-165; Eff. April 1, 2017.

10A NCAC 13G .1503 RENEWAL OF ADMINISTRATOR APPROVAL

(a) The Department shall renew an administrator's approval at the end of the year following the year of initial approval if the administrator submits documentation of completed coursework related to long term care management or the care of aged and disabled persons dated and issued by the course provider after approval. The required number of hours or coursework shall be prorated by the Department based 30 hours of required continuing education biennially and the number of months from the date of the administrator's initial approval until June 30 of the next year following issuance.

(b) The Department shall continue to renew an administrator's approval biennially based on an expiration date of June 30. For each renewal following initial renewal the administrator shall submit documentation totaling 30 hours of completed coursework related to long term care management or the care of aged and disabled persons dated and issued by the course provider within the current two-year approval period.

(c) For the purposes of this Rule, examples of coursework related to long term care management or the care of aged and disabled

persons include financial management, human resource management, medication administration, dementia care, diabetic care, managing aggressive behaviors, and infection control.

History Note: Authority G.S. 131D-2.16; 131D-4.3; 143B-165; Eff. April 1, 2017.

10A NCAC 13P .0203 SPECIAL SITUATIONS

(a) Upon written request from an EMS system or systems, tribal government, or federal jurisdiction having recognized province in North Carolina, the North Carolina Medical Care Commission may approve the furnishing and providing of services within the scope of practice of EMD, EMR, EMT, AEMT, or Paramedic in North Carolina.

(b) This approval shall be granted where the North Carolina Medical Care Commission concludes there exists an inability to address the criteria for EMS System development as set forth in Rule .0201 of this Section and the deficiency cannot be rectified due to insufficient resources or because of a lack of geographical access within the respective EMS system or systems.

History Note: Authority G.S. 143-508(b); Temporary Adoption Eff. January 1, 2002; Eff. April 1, 2003; Amended Eff. January 1, 2004; Readopted Eff. April 1, 2017.

10A NCAC 13P .0204 EMS PROVIDER LICENSE REQUIREMENTS

(a) Any firm, corporation, agency, organization, or association that provides non-transportation emergency medical services at the AEMT or Paramedic level shall be licensed by the Department as an EMS Provider by meeting and maintaining the criteria defined in Paragraph (b) of this Rule.

(b) Any firm, corporation, agency, organization, or association that provides emergency medical transportation services shall be licensed as an EMS Provider by meeting and maintaining the following criteria:

- (1) be affiliated as defined in Rule .0102(3) of this Subchapter with each EMS System where there is to be a physical base of operation or where the EMS Provider will provide point-to-point patient transport within the system;
- (2) present an application for a permit for any ambulance and EMS non-transporting vehicle that will be in service as required by G.S. 131E-156, and meet the requirements of Rules .0207 and .0213 of this Section;
- (3) submit a written plan detailing how the EMS Provider will furnish credentialed personnel pursuant to G.S. 131E-158;
- (4) where there are franchise ordinances pursuant to G.S. 153A-250 in effect that cover the proposed service areas of each EMS system of operation, provide written documentation reflecting a current franchise to operate, or of impending receipt of a franchise, from each county. In counties where there is no franchise

ordinance in effect, present a signature from each EMS System representative authorizing the EMS Provider to affiliate as required by Subparagraph (b)(1) of this Rule;

- (5) provide inspection, repair, cleaning, and maintenance of all EMS responding ground vehicles and maintain records for a period of time determined by the EMS System, and make available for inspection by the OEMS verifying compliance with this Subparagraph;
- (6) collect and within 24 hours electronically submit to the OEMS EMS Care data that uses the EMS data set and data dictionary as specified in "North Carolina College of Emergency Physicians: Standards for Medical Oversight and Data Collection;"
- (7) develop and implement written operational protocols for the management of equipment, supplies, and medications and maintain records for a period of time determined by the EMS System, and make available for inspection by the OEMS verifying compliance with this Subparagraph. These protocols shall include a methodology:
 - (A) to assure that each vehicle contains the required equipment and supplies on each response;
 - (B) for cleaning and maintaining the equipment and vehicles; and
 - (C) to assure that supplies and medications are not used beyond the expiration date and stored in a temperature controlled atmosphere according to manufacturer's specifications.

(c) An EMS Provider may renew its license by presenting documentation to the OEMS that the Provider meets the criteria set forth in Paragraph (b) of this Rule.

(d) Air Medical Programs are exempt from the requirements set forth in Subparagraphs (b)(1) and (b)(4) of this Rule.

History Note: Authority G.S. 131E-155.1(c); 143-508(d)(1); 143-508(d)(5); 143-508(d)(13);

Temporary Adoption Eff. January 1, 2002;

Eff. April 1, 2003;

Amended Eff. January 1, 2004;

Amended Eff. March 3, 2009 pursuant to E.O. 9, Beverly Perdue, March 3, 2009;

Pursuant to G.S. 150B-21(c), a bill was not ratified by the General Assembly to disapprove this rule;

Readopted Eff. Pending Legislative Review.

10A NCAC 27G .6702 OPERATIONS

When ordered by a court, forensic screening and evaluation to assess capacity to proceed to trial shall be provided by evaluators trained and certified in accordance with the provisions of 10A NCAC 27H .0201 through .0207.

History Note: Authority G.S. 15A-1002; 143B-147;

Eff. May 1, 1996;

Amended Eff. _____.

10A NCAC 27H .0201 SCOPE

- (a) The purpose of Rules .0201 through .0207 of this Section is to specify the requirements that shall be met to be certified as a local certified forensic evaluator by the Division of Mental Health, Developmental Disabilities and Substance Abuse Services.
- (b) The provisions of Rules .0201 through .0207 of this Section apply to any Licensed Clinician, as defined in Rule 10A NCAC 27G .0104, seeking certification as a local certified forensic evaluator by the Division.

History Note: Authority G.S. 15A-1002; 143B-147;

Eff. July 1, 1982;

Amended Eff. _____; January 1, 1996; May 1, 1990.

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 09B .0204 TRAINING COURSE ENROLLMENT

- (a) Any school offering a Basic Law Enforcement Training Course shall have enrolled 10 trainees in the offering.
- (b) Any school may make written request to the Director of the Standards Division to deliver the Basic Law Enforcement Training Course with no fewer than eight enrolled trainees. The Director shall approve the request if it includes a summary of the efforts the school has made to notify its respective community of the availability of the course and the reasons supporting the school's need to enroll fewer than 10 trainees.

(c) The school may not enroll any trainee later than the initial day of delivery of a certified training course unless the trainee's enrollment is pursuant to an authorization of limited enrollment in a subsequent course pursuant to Rule .0405 of this Subchapter or pursuant to prescribed supplementary or remedial training required pursuant to Rule .0402 of this Subchapter.

(d) The school may not enroll more than 16 trainees in a presentation of the "Criminal Justice Instructor Training Course" as constituted under Rule .0209 of this Section.

History Note: Authority G.S. 17C-6;

Eff. January 1, 1981;

Amended Eff. April 1, 2017; August 1, 2005; August 1, 2000;

January 1, 1985; November 1, 1981.

12 NCAC 09G .0206 MORAL CHARACTER

Every person employed as a correctional officer or probation/parole officer by the Department of Public Safety, Division of Adult Correction and Juvenile Justice shall demonstrate good moral character as evidenced by the following:

- (1) not having been convicted of a felony;
- (2) not having been convicted of a misdemeanor as defined in 12 NCAC 09G .0102(10) for three years or the completion of any corrections

supervision imposed by the courts whichever is later;

(3) not having been convicted of an offense that, under 18 U.S.C. 922 (1996), which is hereby incorporated by reference and all subsequent amendments (<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18-partI-chap44-sec922.pdf>), would prohibit the possession of a firearm or ammunition;

(4) having submitted to and produced a negative result on a drug test within 60 days of employment or any in-service drug screening required by the Department of Public Safety, Division of Adult Correction and Juvenile Justice that meets the certification standards of the Department of Health and Human Services for Federal Workplace Drug Testing Programs. A list of certified drug testing labs that meet this requirement may be obtained, at no cost, at http://workplace.samhsa.gov/DrugTesting/Level_1_Pages/CertifiedLabs.html.

(5) submitting to a background investigation consisting of the following:

- (a) verification of age;
- (b) verification of education; and
- (c) criminal history check of local, state, and national files;

(6) being truthful in providing information to the Department of Public Safety, Division of Adult Correction and Juvenile Justice and to the Standards Division for the purpose of obtaining probationary or general certification;

(7) not having pending or outstanding felony charges which, if convicted of, would disqualify the applicant from holding such certification, pursuant to G.S. 17C-13; and

(8) any conduct that brings into question the truthfulness or credibility of the officer, reflects poorly on the officer's profession, or conduct that involved "moral turpitude." "Moral Turpitude" is conduct that is contrary to justice, honesty, or morality. This conduct may include conduct as defined in: *re Willis*, 299 N.C. 1, 215 S.E. 2d 771 appeal dismissed 423 U.S. 976 (1975); *in re State v. Harris*, 216 N.C. 746, 6 S.E. 2d 854 (1940); *in re Legg*, 325 N.C. 658, 386 S.E. 2d 174 (1989); *in re Applicants for License*, 143 N.C. 1, 55 S.E. 635 (1906); *in re Dillingham*, 188 N.C. 162, 124 S.E. 130 (1924); *State v. Benbow*, 309 N.C. 538, 308 S.E. 2d 647 (1983); and their progeny.

History Note: Authority G.S. 17C-6; 17C-10; Temporary Adoption Eff. January 1, 2001; Eff. August 1, 2002; Amended Eff. April 1, 2017; January 1, 2015; June 1, 2012; April 1, 2009; August 1, 2004.

12 NCAC 09H .0102 MINIMUM TRAINING SPECIFICATIONS

(a) Each qualified retired law enforcement officer shall qualify with each handgun he or she will carry in accordance with the standards outlined in 12 NCAC 09E .0105(a)(1) and 12 NCAC 09E .0106(a), (c), (e), (f) and (g), which shall incorporate in classroom instruction and firearms qualification on the firing range utilizing the course of fire from the "Specialized Firearms Instructor Training Manual."

(b) In addition to the standards set out 12 NCAC 09E .0105 and .0106, each qualified retired law enforcement officer shall also receive a minimum of two hours of instruction on the North Carolina laws of self defense and the use of force by private citizens, detention of persons by private persons, and assistance to law enforcement officers by private persons.

(c) Qualified retired law enforcement officers meeting the requirements of Paragraphs (a) and (b) of this Rule, and have met the requirements of Rule .0105 of this Subchapter, shall be certified for a period of 12 months from the date the application is approved by the Commission. Upon application for renewal, the certification may be renewed by the Commission for 12 month periods, provided the qualified retired law enforcement officer meets the rules specified in this Subchapter.

(d) Qualified retired law enforcement officers shall qualify each certification period with each handgun that will be carried concealed.

History Note: Authority G.S. 14-415.10; 14-415.25;

14.415.26; 17C-6;

Eff. May 1, 2009;

Amended Eff. April 1, 2017.

12 NCAC 09H .0105 FILING AND FEES

Each applicant for firearms qualification certification under the Qualified Retired Law Enforcement Officers Firearms Qualification Certification Program shall submit the following to the Commission:

- (1) a Commission application form (Form F-9R) containing the applicant's notarized signature which attests that the applicant meets the definition of qualified retired law enforcement officer set forth in G.S. 14-415.10 and is eligible to receive or possess firearms under federal and state law. The Form F-9R, available on the agency's website at <http://www.ncdoj.gov/getdoc/23af3614-2aa2-4416-bbae-25cbe9441e06/1F-9R-8-09.aspx>, shall include the signature of a Commission certified Specialized Firearms Instructor attesting that the applicant has met the training and qualification standards as specified in Rule 09H .0102 and lists the handguns with which the qualified retired officer qualified;
- (2) a copy of the qualified retired officer's photographic identification indicating retirement status issued by the law enforcement agency from which the applicant retired; and
- (3) a fee of fifty dollars (\$50.00) for the initial one-year qualification and a fee of twenty-five

dollars (\$25.00) for the annual renewal thereafter. Applications and fees shall be submitted to:

Criminal Justice Standards Division
North Carolina Department of Justice
Post Office Drawer 149
Raleigh, NC 27602.

All fees shall be paid by certified check or money order made payable to the North Carolina Department of Justice.

History Note: Authority G.S. 14-415.10; 14-415.25; 14-415.26; 17C-6;

Eff. April 1, 2009;

Amended Eff. April 1, 2017.

TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY

15A NCAC 10A .1401 GENERAL PROVISIONS

(a) Purpose. The purpose of this section is to establish the rules necessary to implement G.S. 113 Article 22B, the Interstate Wildlife Violator Compact (hereinafter referred to as WVC).

(b) Applicability. The rules in this Section shall apply to any person possessing a license, privilege or right to hunt, fish, trap, possess, or transport wildlife in the State of North Carolina. Violations under this Section apply to only hunting, fishing and trapping. The rules shall not apply to any offenses committed in North Carolina or any other WVC state prior to August 1, 2017.

(c) Definitions. The definitions in G.S. 113-300.6 Article II shall apply throughout this Subchapter and to all forms prescribed pursuant to this Subchapter, unless otherwise indicated.

History Note: Authority G.S. 113-134; 113-300.7;

Eff. August 1, 2017.

15A NCAC 10A .1402 WILDLIFE VIOLATOR COMPACT MANUAL

The Wildlife Violator Compact Operations Manual, which is incorporated by reference, including subsequent amendments and editions, may be found free of charge, at <http://www.ncwildlife.org>, and G.S. 113-300.6 hereby establish the administrative and procedural guidelines for participation in the WVC.

History Note: Authority G.S. 113-134; 113-300.7;

Eff. August 1, 2017.

15A NCAC 10A .1403 WILDLIFE VIOLATOR COMPACT CONDITIONS FOR NON-RESIDENTS

(a) Non-residents of North Carolina who are residents of a WVC member state at the time of a misdemeanor hunting, fishing, or trapping violation occurring in North Carolina, may be released on personal recognizance when the violation consists of a written citation requiring a violator to resolve the violation directly with the court, either in person, by mail, or through an attorney.

(b) All identified offenses set forth in G.S. 113 are subject to the provisions of the WVC.

(c) Upon failure to comply with the terms of a citation for violation of North Carolina hunting, fishing, or trapping laws, the Wildlife Resources Commission shall send notice of failure to comply, by certified mail, return receipt requested, to the violator's last known address, and report the failure to comply to the home state to start suspension procedures in accordance with the Wildlife Violator Compact Manual.

(d) License privileges shall only be restored when the citation is resolved through the North Carolina Court System.

(e) Upon resolving the citation, the non-resident shall notify the Wildlife Resources Commission so that hunting, fishing or trapping privileges can be restored.

History Note: Authority G.S. 113-134; 113-300.7;

Eff. August 1, 2017.

15A NCAC 10A .1404 WILDLIFE VIOLATOR COMPACT CONDITIONS FOR RESIDENTS

(a) North Carolina residents committing hunting, fishing, or trapping violations in another WVC member state, who upon release on personal recognizance from the issuing state, failed to resolve the violation, shall have their hunting, fishing, or trapping privileges suspended in North Carolina.

(b) If the Wildlife Resources Commission receives notice of an unresolved violation, a Notice of Suspension shall be prepared and sent to the violator:

- (1) the notice shall have a delayed effective date of at least 14 business days, to allow the violator to contact the court in the issuing state and resolve the case;
- (2) the notice shall be delivered personally or by letter sent by certified mail, return receipt requested, to the last known address of the licensee or permit holder;
- (3) the notice of suspension shall inform the violator of the facts supporting the suspension and procedures to be followed in resolving the matter with the court in the issuing state; and the notice shall provide the procedure for appealing the suspension.

(c) Any suspensions received by the Wildlife Resources Commission shall remain in effect until such time as the North Carolina resident resolves the violation in the issuing state.

(d) When a North Carolina resident resolves a violation with the court in the issuing state, it is the responsibility of the resident to present documents to the Wildlife Resources Commission that acknowledge compliance. Upon receipt of documentation set forth in Paragraph (e) of this Rule, an acknowledgement of compliance shall be issued directly to that person by the Wildlife Resources Commission.

(e) The following shall be sufficient evidence of compliance in response to a notice of suspension for non-compliance:

- (1) copy of the court judgment; or
- (2) a copy of a Notice of Compliance from the issuing state.

(f) The Wildlife Resources Commission shall reinstate the license if the acknowledgement of compliance is presented after the effective date of the suspension.

(g) Residents receiving a Notice of Suspension from the Wildlife Resources Commission under the WVC provisions for failure to resolve a citation issued in another WVC member state may file a petition with the Office of Administrative Hearings, within 60 days from the date of delivery by certified mail to the residents last known address, pursuant to G.S. 150B-23.

(h) The issuing state shall be notified if the suspension order is overturned by the Office of Administrative Hearings.

History Note: Authority G.S. 113-134; 113-300.7; Eff. August 1, 2017.

15A NCAC 10A .1405 RECIPROCAL RECOGNITION OF SUSPENSIONS

(a) When the Wildlife Resources Commission receives notice of suspension of a North Carolina resident's hunting, fishing, or trapping privileges or licenses by a WVC member state that are the result of a conviction or an accumulation of convictions of wildlife violations in one or more states that participate in the WVC, the agency shall determine whether the violation, or accumulation of violations, leading to the suspension could have led to the suspension of rights, privileges, or licenses under G.S. 113. If it is determined that the resident's privileges or licenses would have been suspended under G.S. 113, the resident's licenses, rights, and privileges to hunt, fish, or trap in North Carolina shall be suspended pursuant to Article 22B of G.S. 113 for the same period as imposed by the WVC member state where the violation occurred.

(b) North Carolina shall communicate suspension information to other member states, using the WVC database. Information may include the following:

- (1) name;
- (2) date of birth;
- (3) last known address;
- (4) violation(s) and convictions upon which the suspension is based;
- (5) scope of the suspension (i.e., fishing, hunting, trapping, all privileges or rights); and
- (6) effective dates of the suspension and term of the suspension.

(c) In the event documentation of a violation and subsequent license suspension is needed by a member state for license suspension hearings or other purposes, the Wildlife Resources Commission may provide certified copies of the citation or other charging instrument, any arrest or investigation reports, suspension orders, and the disposition of the matter.

History Note: Authority G.S. 113-134; 113-300.7; Eff. August 1, 2017.

15A NCAC 10A .1406 APPEALS

A final agency decision made by the Wildlife Resources Commission to suspend any North Carolina hunting, fishing or trapping license pursuant to the WVC shall be appealable to the Office of Administrative Hearings pursuant to G.S. 150B-23. Notice of the right to appeal shall be included in the correspondence notifying the licensee of the final agency decision.

History Note: Authority G.S. 113-134; 113-300.7; Eff. August 1, 2017.

15A NCAC 10B .0113 BIG GAME KILL REPORTS

(a) Upon killing a bear, deer, or wild turkey and before moving the animal from the site of kill, the successful hunter shall validate the Big Game Harvest Report Card furnished with the big game hunting license by cutting or punching out the validation box that correctly identifies the big game animal harvested. In lieu of the Big Game Harvest Report Card, antlerless deer may be recorded as outlined on the Bonus Antlerless Deer Harvest Report Card acquired from the Wildlife Resources Commission or a Wildlife Service Agent. Deer harvested under the Deer Management Assistance Program (DMAP) program, not validated with either a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card, shall be validated by affixing a Commission-issued DMAP tag to the deer as required by G.S. 113-291.2(e).

(b) Before any harvested bear, deer, or wild turkey is skinned, dressed, or dismembered for consumption and within 24 hours of the kill, the animal shall be registered through the Electronic Big Game Reporting System. The hunter may field dress the animal at the site of kill or before registering it by bleeding and removing the digestive, respiratory, and circulatory organs. However, the hunter may not further process the carcass in a manner that obscures its species identity, age, or sex before registering the animal. When the kill occurs in a remote area that prevents the animal from being transported as an entire carcass, the animal may be skinned and quartered before being registered. When a hunter harvests a big game animal in a remote area and plans to remain in the remote area for longer than a day, the 24-hour time limit to register the kill is extended until the hunter leaves the area. Upon leaving the remote area, the hunter shall register the kill within 24 hours.

(c) When a hunter registers a kill, the Electronic Big Game Reporting System shall issue an authorization number to the big game hunter. The hunter shall record the authorization number obtained through the Electronic Big Game Reporting System in the space provided immediately adjacent to the validation box that has been cut or punched out on the Big Game Harvest Report Card or the Bonus Antlerless Deer Harvest Report Card. Any hunter validating a deer harvest with a Commission-issued DMAP tag shall record and maintain the issued authorization number to serve as proof of registration. The authorization number shall thereafter constitute authorization for the continued possession of the carcass. Possession of a harvested bear, deer, or wild turkey without the validated Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card where applicable, including the authorization number obtained through the Electronic Big Game Reporting System, is unlawful.

(d) Persons who kill a big game animal and leave it unattended shall identify the carcass with their name, their hunting license number, and the date of kill. Once an unattended animal is registered, the animal need only be identified with the authorization number received by registering the kill. It is unlawful for a person to possess a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card on which the species validation box has been cut or punched out, but on which the authorization number received by registering the kill has not

been recorded, or to possess a used or affixed Commission-issued DMAP tag without a valid authorization number, unless the animal is in the person's possession or is identified as described in this Paragraph and not more than 24 hours have passed since the harvest.

(e) Persons who are by law exempt from the big game hunting license by G.S. 113-276 shall obtain a Big Game Harvest Report Card or Bonus Antlerless Deer Harvest Report Card for License Exempt Hunters from a Wildlife Service Agent, or possess a valid Commission-issued DMAP tag. Upon harvesting a bear, deer, or wild turkey, the exempt person shall validate and register the kill as provided by this Rule.

(f) Persons who use special tags issued pursuant to G.S. 113-291.2(e) to validate the harvest of a deer shall follow the tagging and reporting requirements set forth by statute and shall not take any action under this Rule.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291;

Eff. February 1, 1976;

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

Temporary Amendment Eff. July 1, 1999;

Amended Eff. August 1, 2017; August 1, 2012; August 1, 2010; June 1, 2009; May 1, 2007; May 1, 2004; July 1, 2000.

15A NCAC 10B .0119 WILDLIFE COLLECTORS

(a) Collection Licenses. The Executive Director may license qualified individuals to take or collect any species of wildlife resources except that endangered, threatened, and special concern species may not be taken or collected except under a special permit issued by the Executive Director for research purposes, unless there is an open season for the species. If an open season exists for the species, then the appropriate hunting, fishing, or trapping license serves as the authorization for take. This Rule shall not prohibit an individual from killing an endangered, threatened, or special concern species in defense of his own life or the lives of others without a permit. Individuals who annually collect fewer than five reptiles or fewer than 25 amphibians that are not on the endangered, threatened, or special concern lists shall be exempted from this license requirement, except snapping turtles (*Chelydra serpentina*) less than 11 inches (curved carapace length) shall not be collected at all. The license shall be issued upon payment of a fee in accordance with G.S. 113-272.4, except that licenses shall be issued to representatives of educational or scientific institutions or of governmental agencies without charge. The license shall be used in lieu of any other hunting or trapping license required by law and shall authorize possession and transportation of the wildlife incidental to the authorized taking, except that it shall not authorize the taking, possession, or transportation of any species of wildlife in violation of the Endangered Species Act, the Migratory Bird Treaty Act, The Bald and Golden Eagle Protection Act or any other federal act to prohibit or restrict the possession and transportation of wildlife resources.

(b) Limits on collection. Individuals shall collect no more than 10 turtles from the family Chelydridae (snapping turtles) per day and no more than 100 per calendar and these turtles shall have a curved carapace length greater than 11 inches. Individuals shall

collect no more than 10 turtles from the family Kinosternidae (mud and musk turtles) per day and no more than 100 per calendar year.

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

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

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

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

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

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

Eff. January 1, 1981;

Amended Eff. August 1, 2017; January 1, 2013; May 1, 2009; May 1, 2008; April 1, 2001; February 1, 1994; November 1, 1990; September 1, 1989.

15A NCAC 10B .0202 BEAR

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

- (1) Monday on or nearest October 15 to the Saturday before Thanksgiving and the third Monday after Thanksgiving to January 1 in and west of Surry, Wilkes, Caldwell, Burke, and Cleveland counties.
- (2) Second Monday in November to January 1 in Bladen, Brunswick, Carteret, Columbus, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender, and Sampson counties.
- (3) First Monday in December to the third Saturday thereafter in Robeson County.
- (4) Second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in Beaufort, Camden, Chowan, Craven, Dare, Edgecombe, Greene, Halifax, Hyde, Jones, Lenoir, Martin, Nash,

Northampton, Pasquotank, Pitt, Tyrrell, Washington, Wayne, and Wilson counties.

(5) Saturday preceding the second Monday in November to the following Saturday and the third Monday after Thanksgiving to the fifth Saturday after Thanksgiving in Bertie, Currituck, Gates, Hertford, and Perquimans counties.

(6) Concurrent with the open season for all lawful weapons for hunting deer as specified in 15A NCAC 10B .0203(a)(1) in Alamance, Alexander, Anson, Cabarrus, Caswell, Catawba, Chatham, Davie, Davidson, Durham, Franklin, Forsyth, Gaston, Granville, Guilford, Harnett, Hoke, Iredell, Johnston, Lee, Lincoln, Mecklenburg, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Scotland, Stanly, Stokes, Union, Vance, Wake, Warren, and Yadkin counties.

(b) Restrictions

(1) For purposes of this Paragraph, "bait" means any natural, unprocessed food product that is a grain, fruit, nut, vegetable, or other material harvested from a plant crop that is not modified from its raw components.

(2) Bears shall not be taken with the use or aid of:

(A) any processed food product as defined in G.S. 113-294(r), any animal, animal part or product, salt, salt lick, honey, sugar, sugar-based material, syrups, candy, pastry, gum, candy block, oils, spices, peanut butter, or grease;

(B) any extracts of substances identified in Part (A) of this Subparagraph;

(C) any substances modified by substances identified in Part (A) of this Subparagraph, including any extracts of those substances; or

(D) any bear bait attractant, including sprays, aerosols, scent balls, and scent powders.

(3) Bears may be taken with the aid of bait from the Monday on or nearest October 15 to the Saturday before Thanksgiving in the counties in Subparagraph (a)(1) of this Rule.

(4) Bears may be taken with the aid of bait during the entire open season in the counties identified in Subparagraphs (a)(2) through (a)(6) of this Rule.

(5) Bears shall not be taken while in the act of consuming bait.

(6) Hunters shall not take bears using dogs in the following counties: Alamance south of Interstate 85, Anson west of N.C. Hwy 742, Cabarrus, Chatham, Davie, Davidson, Franklin, Forsyth, Gaston, Guilford, Lee, Lincoln, Mecklenburg, Montgomery, Orange south of Interstate 85, Randolph, Rockingham, Rowan, Stanly, Union, and Wake south of N.C. Hwy 98. In all other counties and parts of counties, hunters may take bears using dogs and may release dogs in the vicinity of bait.

(c) No Open Season. There is no open season in those parts of counties included in the following posted bear sanctuaries:

Avery, Burke, and Caldwell counties--Daniel Boone bear sanctuary except by permit only

Beaufort, Bertie, and Washington counties--Bachelor Bay bear sanctuary

Bladen County--Suggs Mill Pond bear sanctuary

Brunswick and Columbus counties--Green Swamp bear sanctuary

Buncombe, Haywood, Henderson, and Transylvania counties--Pisgah bear sanctuary

Carteret, Craven, and Jones counties--Croatan bear sanctuary

Clay County--Fires Creek bear sanctuary

Columbus County--Columbus County bear sanctuary

Currituck County--North River bear sanctuary

Dare County--Bombing Range bear sanctuary except by permit only

Haywood County--Harmon Den bear sanctuary

Haywood County--Sherwood bear sanctuary

Hyde County--Gull Rock bear sanctuary

Hyde County--Pungo River bear sanctuary

Jackson County--Panthertown-Bonas Defeat bear sanctuary

Macon County--Standing Indian bear sanctuary

Macon County--Wayah bear sanctuary

Madison County--Rich Mountain bear sanctuary

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

Mitchell and Yancey counties--Flat Top bear sanctuary

Wilkes County--Thurmond Chatham bear sanctuary

(d) The daily bag limit is one, the possession limit is one, and the season limit is one.

(e) Kill Reports. The carcass of each bear shall be reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.7; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 1998; September 1, 1995; July 1, 1995; July 1, 1994; April 14, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2002; Amendment Eff. August 1, 2002; Temporary Amendment Eff. September 1, 2003; Temporary Amendment Expired Eff. December 27, 2003; Amended Eff. August 1, 2015; August 1, 2014; August 1, 2012; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005; Temporary Amendment Eff. May 31, 2016; Amended Eff. August 1, 2017; August 1, 2016.

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

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

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

(A) Saturday on or nearest October 15 through January 1 in all of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus*, Cumberland, Craven, Currituck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Harnett, Hertford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Moore, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Richmond**, Robeson, Sampson, Scotland**, Tyrrell, Vance, Wake, Warren, Washington, Wayne, and Wilson counties. *Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline. **Refer to 15A NCAC 10D .0103(h) for seasons on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands.

(B) Saturday before Thanksgiving through January 1 in all of Alexander, Alleghany, Ashe, Catawba, Davie, Forsyth, Gaston, Iredell, Lincoln, Stokes, Surry, Watauga, Wilkes*, and Yadkin counties.
*Refer to 15A NCAC 10D .0103(h) for seasons on Buffalo Cove Game Land.

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

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

(E) Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in those parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in that part of Hyde county known as Lake Mattamuskeet National Wildlife Refuge; in those parts of Dare and Hyde counties known as Alligator River National Wildlife Refuge; in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in that part of Currituck County known as the Mackay Island National Wildlife Refuge.

(F) Monday of Thanksgiving week through January 1 in all of Cleveland, Polk, and Rutherford counties, except for South Mountain Game Land.

(2) Deer of Either Sex. Except on Game Lands, deer of either sex may be taken during the open seasons and in the counties and portions of counties listed in Parts (A), (B), (C), (D), (E), (F), and (G) of this Subparagraph: (Refer to 15A NCAC 10D .0103 for either-sex deer seasons on Game Lands). Deer of either sex may be taken during the open season identified in Part (H) of this Subparagraph.

(A) The open either-sex deer hunting dates established by the U.S. Fish and Wildlife Service during the period from the Saturday on or nearest September 10 through January 1 in those parts of Camden, Gates, and Pasquotank counties known as the Dismal Swamp National Wildlife Refuge; in those parts of Hyde, Tyrrell, and Washington counties known as the Pocosin Lakes National Wildlife Refuge; in those parts of Anson and Richmond counties known as the Pee Dee National Wildlife Refuge; and in those parts of Currituck County known as the Currituck National Wildlife Refuge and the Mackay Island National Wildlife Refuge.

(B) The open either-sex deer hunting dates established by the appropriate military commands at each of the military installations listed in this Paragraph, during the period from Saturday on or nearest October 15 through January 1 in that part of Brunswick County known as the Sunny Point Military Ocean Terminal, in that part of Craven County known and marked as Cherry Point Marine Base, in that part of Onslow County known and marked as the Camp Lejeune Marine Base, on Fort Bragg Military Reservation, and on Camp Mackall Military Reservation.

(C) Youth either-sex deer hunts. First Saturday in October for youth either-sex deer hunting by permit only on a portion of Belews Creek Steam Station in Stokes County designated by agents of the Commission; the third Saturday in October for youth either-sex deer hunting by permit only on Mountain Island State Forest in Lincoln and Gaston counties; and the second Saturday in November for youth either-sex deer hunting by permit only on apportion of Warrior Creek located on W. Kerr Scott Reservoir, Wilkes County designated by agents of the Commission. A youth is defined as a person under 18 years of age.

(D) The last open day of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Buncombe*, Haywood, Henderson, Madison, and Transylvania counties.
*Except for that part east of NC 191, south of the French Broad and Swannanoa Rivers, west of US 25, and north of NC 280

**Refer to 15A NCAC 10D .0103 for either-sex deer seasons on game lands that differ from the days identified in this Subparagraph

(E) The last six open days of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Avery, Burke, Caldwell, McDowell, Mitchell, and Yancey counties.

(F) The first six open days and the last seven open days of the Deer with Visible Antlers season described in Subparagraph (a)(1) of this Rule in all of Cleveland, Polk, and Rutherford counties.

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

(H) The fourth Saturday in September, subject to the following restriction: only persons under the age of 18 years may hunt.

(b) Open Seasons (Bow and Arrow) for hunting deer:

(1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, deer may be taken with bow and arrow during the following seasons:

(A) Saturday on or nearest September 10 to the third Friday thereafter in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (A) of Subparagraph (a)(1) of this Rule, except on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands.

(B) Saturday on or nearest September 10 to the third Friday before Thanksgiving in the counties and parts of counties having the open seasons for Deer with Visible Antlers specified by Part (B) of Subparagraph (a)(1) of this Rule except for that portion of Buffalo Cove Game Land in Wilkes County.

(C) Saturday on or nearest September 10 to the Sunday prior to the opening of the blackpowder firearms and bow and arrow season identified in Part (c)(1)(C) of this Rule; and the Sunday immediately following the closing of blackpowder firearms and bow and arrow season identified in Part (c)(1)(C) of this Rule to the Sunday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (C) of Subparagraph (a)(1) of this Rule and in Cleveland, Polk, and Rutherford counties.

(D) Saturday on or nearest September 10 to the fourth Friday before Thanksgiving in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (D) of Subparagraph (a)(1) of this Rule, and on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands.

(E) Sunday immediately following the closing of the open season for Deer With Visible Antlers specified by Part (a)(1)(C) of this Rule through January 1 in the counties and parts of counties having the open season for Deer With Visible Antlers specified by Part (a)(1)(C) of this Rule.

(2) Restrictions

(A) Dogs may not be used for hunting deer during the bow and arrow season, except a single dog on a leash may be

used to retrieve a wounded deer in accordance with G.S. 113-291.1(k).

(B) Only archery equipment of the types authorized in 15A NCAC 10B .0116 for taking deer may be used during the bow and arrow deer hunting season.

(C) Deer of either sex may be taken during bow and arrow seasons specified by Parts (b)(1)(A), (B), (C), and (D) of this Rule.

(D) Only deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, shall be taken during the bow and arrow season specified by Part (b)(1)(E) of this Rule.

(c) Open Seasons (Blackpowder Firearms and Bow and Arrow) for hunting deer:

(1) Authorization. Subject to the restrictions set out in Subparagraph (2) of this Paragraph, deer may be taken only with blackpowder firearms and bow and arrow during the following seasons:

(A) The Saturday on or nearest October 1 to the Friday of the second week thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (A) of Subparagraph (a)(1) of this Rule, except on Nicholson Creek, Rockfish Creek, and Sandhills Game Lands.

(B) The third Saturday preceding Thanksgiving until the Friday of the second week thereafter in the counties* and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (B) of Subparagraph (a)(1) of this Rule.

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

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

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

(2) Restrictions

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

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

(3) As used in this Paragraph, blackpowder firearms means "Any firearm - including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system - manufactured in or before 1898; any replica of this type of firearm if such replica is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition; and any muzzle-loading rifle, muzzle-loading shotgun, or muzzle-loading handgun that is designed to use blackpowder, blackpowder substitute, or any other propellant loaded through the muzzle and that cannot use fixed ammunition."

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

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

(2) Participation. Cities that intend to participate in the urban season shall send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee at 1722 Mail Service Center, Raleigh, N.C. 27699-1722. Cities shall also submit a map of the city's boundaries within which the urban season shall apply.

(3) Restrictions:

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

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

(e) Bag limits. In and east of Vance, Franklin, Wake, Harnett, Moore, and Richmond counties, the possession limit is six deer, up to four of which may be deer with visible antlers. In all other counties of the state the possession limit is six deer, up to two of which may be deer with visible antlers. The season limit in all counties of the State, is six deer. In addition to the bag limits described above, a hunter may obtain multiple bonus antlerless deer harvest report cards from the Wildlife Resources Commission or any Wildlife Service Agent to allow the harvest of two additional antlerless deer per card on lands others than lands enrolled in the Commission's game land program during any open deer season in all counties and parts of counties of the State identified in Part (G) of Subparagraph (a)(2) of this Rule. Antlerless deer harvested and reported on the bonus antlerless harvest report card shall not count as part of the possession and season limit. Hunters may also use the bonus antlerless harvest report cards for deer harvested during the season described in Paragraph (d) of this Rule within the boundaries of participating municipalities, except on State-owned game lands. Antlerless deer include males with knobs or buttons covered by skin or velvet as distinguished from spikes protruding through the skin. The bag limits described above do not apply to deer harvested in areas covered in the Deer Management Assistance Program (DMAP) as described in G.S. 113-291.2(e) for those individuals using Commission-issued DMAP tags and reporting harvest as described on the DMAP license. Season bag limits shall be set by the number of DMAP tags issued and in the hunters' possession. All deer harvested under this program, regardless of the date of harvest, shall be tagged with these DMAP tags and reported as instructed on the DMAP license. The hunter does not have to validate the Big Game Harvest Report Card provided with the hunting license for deer tagged with the DMAP tags. Any deer harvested on lands enrolled in the DMAP and not tagged with DMAP tags may only be harvested during the regularly established deer seasons subject to all the restrictions of those seasons, including bag limits, and reported using the big game harvest report card or the bonus antlerless harvest report card.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996, July 1, 1995; December 1, 1994; July 1, 1994; July 1, 1993; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2002; July 1, 2001; Amended Eff. August 1, 2002 (Approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003); Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2012; August 1, 2011; July 10, 2010; June 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 10B .0209 WILD TURKEY

(a) Open Seasons:

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

(2) Spring Youth Only Wild Turkey Season is from the first Saturday in April until the Friday thereafter on bearded or male wild turkeys only. The bag limit during the Spring Youth Only Wild Turkey season is one bird. For purposes of this Subparagraph a youth hunter is younger than 18 years of age. Each youth hunting during this season shall be accompanied by a licensed adult at least 21 years of age. The adult shall remain in close enough proximity to monitor the activities of, and communicate with, the youth at all times.

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

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

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

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; 113-291.5; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 06/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003); Amended Eff. August 1, 2017; January 1, 2013; May 1, 2009; May 1, 2007; November 1, 2005.

15A NCAC 10B .0215 CROWS

(a) Open seasons for hunting crows are as follows: Wednesday, Friday, and Saturday of each week from the first Wednesday in June to the last day of February and on the following holidays: July 4, Labor Day, Thanksgiving, Christmas, New Years, and Martin Luther King, Jr., except when those days occur on a Sunday.

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

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

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

History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 50 C.F.R. 20.133; Eff. February 1, 1976; Amended Eff. May 1, 2009; May 1, 2006; June 1, 2005; July 1, 1991; July 1, 1987; July 1, 1984; July 1, 1983; Temporary Amendment Eff. October 1, 2011; Amended Eff. August 1, 2017; January 1, 2012.

15A NCAC 10B .0406 MISUSE OF TAGS

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

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

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

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

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

113-273; 113-276.1; 113-291.4;

Eff. November 14, 1978;

Amended Eff. August 1, 2017; August 1, 2010; January 1, 1992;

December 1, 1981; October 1, 1980.

15A NCAC 10C .0203 RECIPROCAL LICENSE AGREEMENTS

(a) Virginia. In accordance with a reciprocal license agreement between the States of Virginia and North Carolina, all valid licenses and permits authorizing sport fishing and legally obtained from the Virginia Department of Game and Inland Fisheries or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing by means of rod and reel, hook and line, casting, or trotline in the Dan River east of the Union Street Dam at Danville, and east of the mouth of Difficult Creek on the Staunton River arm of Kerr Reservoir to the Gaston Dam on the Roanoke River, including all tributary waters lying in either Virginia or North Carolina that are accessible by boat from the main bodies of the Kerr and Gaston Reservoirs, or from the Island Creek subimpoundment. Senior citizen and juvenile license exemptions authorized by either state shall be honored by both states. In addition, all valid fishing licenses and permits legally obtained from the Virginia Department of Game and Inland Fisheries or the North Carolina Wildlife Resources Commission, or the duly authorized agents of either, shall be reciprocally honored for fishing with rod and reel, hook and line, or by casting in that portion of the New River between the confluence of the North and South forks of the New River in North Carolina (Alleghany County) and the confluence of the New and Little Rivers in Virginia (Grayson County).

(b) Georgia. In accordance with a reciprocal license agreement between the States of North Carolina and Georgia, all valid statewide fishing licenses, permits, and license exemptions required by and legally obtained from the North Carolina Wildlife Resources Commission or the Georgia Department of Natural Resources, or duly authorized agents of either, shall be reciprocally honored for the purposes of fishing with hook and line in all of Chatuge Reservoir including all tributary waters lying in either Georgia or North Carolina that are accessible by boat from the main body of Chatuge Reservoir. All persons fishing in

the waters of Chatuge Reservoir beyond the bounds of the state from which they hold a valid fishing license, shall be authorized to fish with said license only from boats not anchored to the shore or to a pier or boat dock connecting to the shore.

(c) Tennessee. In accordance with a reciprocal license agreement between the States of North Carolina and Tennessee, all valid statewide fishing licenses obtained from the North Carolina Wildlife Resources Commission or the Tennessee Wildlife Resources Agency, or the duly authorized agents of either, shall be reciprocally honored for the purposes of fishing with hook and line or fishing in designated mountain trout waters, in that portion of Slick Rock Creek that coincides with the state line between North Carolina and Tennessee and in all of Calderwood Reservoir.

History Note: Authority G.S. 113-134; 113-275; 113-304;

Eff. February 1, 1976;

Amended Eff. August 1, 2017; August 1, 2014; July 1, 1998; July 1, 1995; July 1, 1991.

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

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

- (1) "Natural bait" means any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell.
- (2) "Artificial lure" means a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell.
- (3) "Youth anglers" are individuals under 18 years of age.

(b) For purposes of this Rule, 15A NCAC 10C .0316, and 15A NCAC 10D .0104, the following classifications apply:

- (1) "Public Mountain Trout Waters" are all waters included in this Rule and so designated in 15A NCAC 10D .0104.
- (2) "Catch and Release/Artificial Flies Only Trout Waters" are Public Mountain Trout Waters where only artificial flies having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters designated as such include tributaries unless otherwise noted.
- (3) "Catch and Release/Artificial Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters designated as such include tributaries unless otherwise noted.
- (4) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From

6:00 a.m. on the first Saturday in June until noon that same day only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1 anglers of all ages may fish and these waters have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.

(5) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.

(6) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters designated as such do not include tributaries unless otherwise noted.

(7) "Wild Trout Waters" are Public Mountain Trout Waters which are identified as such in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing these waters. Waters designated as such do not include tributaries unless otherwise noted.

(8) "Wild Trout Waters/Natural Bait" are Public Mountain Trout Waters where all artificial lures and natural baits, except live fish, may be used provided they are fished using only one single hook. Waters designated as such include tributaries unless otherwise noted.

(9) "Undesignated Waters" are all other waters in the State. These waters have no bait or lure restrictions. Trout may not be possessed while fishing these waters from March 1 until 7:00 a.m. on the first Saturday in April.

(c) Seasons, creel and size limits. Seasons, creel and size limits for trout in all waters are listed in Rule .0316 of this Subchapter.

(d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are so designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. All other waters are classified as Undesignated Waters.

(1) Alleghany

(A) Delayed Harvest Trout Waters are as follows:
Little River (S.R. 1133 bridge to 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank])

(B) Hatchery Supported Trout Waters are as follows:
Big Pine Creek
Bledsoe Creek
Brush Creek (N.C. 21 bridge to confluence with Little River, except where posted against trespassing)
Cranberry Creek
(Big) Glade Creek

(2) Ashe County

(A) Catch and Release/Artificial Lures Only Trout Waters are as follows:
Big Horse Creek (Virginia state line to Mud Creek at S.R. 1363, excluding tributaries)

(B) Delayed Harvest Trout Waters are as follows:
Big Horse Creek (S.R. 1324 bridge to North Fork New River)
Helton Creek (Virginia state line to New River)
South Fork New River (upstream end of Todd Island to the SR 1351 bridge)
Trout Lake

(C) Hatchery Supported Trout Waters are as follows:
Beaver Creek (N.C. 221 to South Fork New River)
Big Horse Creek (Mud Creek at S.R. 1363 to S.R. 1324 bridge)
Big Laurel Creek (S.R. 1315 bridge to confluence with North Fork New River)
Buffalo Creek (S.R. 1133 bridge to N.C. 194-88 bridge)
Cranberry Creek (Alleghany Co. line to South Fork New River)
Nathans Creek
North Fork New River (Watauga Co. line to Sharp Dam)
Old Fields Creek (N.C. 221 to South Fork New River)
Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
Roan Creek
Three Top Creek

(3) Avery County

(A) Catch and Release/Artificial Flies Only Trout Waters are as follows:
Elk River (portion on Lees-McRae College property, excluding the millpond)
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)

(B) Catch and Release/Artificial Lures
Only Trout Waters are as follows:
Wilson Creek (game land portion)

(C) Hatchery Supported Trout Waters are as follows:
Boyde Coffey Lake
Elk River (S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line)
Linville River (Land Harbor line [below dam] to the Blue Ridge Parkway boundary line, except where posted against trespassing)
Milltimber Creek
North Toe River — upper (Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing)
North Toe River — lower (S.R. 1164 to Mitchell Co. line, except where posted against trespassing)
Squirrel Creek
Wildcat Lake

(D) Wild Trout Waters are as follows:
Birchfield Creek
Cow Camp Creek
Cranberry Creek (headwaters to U.S. 19E/N.C. 194 bridge)
Gragg Prong
Horse Creek
Kentucky Creek
North Harper Creek
Plumtree Creek
Roaring Creek
Rockhouse Creek
Shawneehaw Creek (portion adjacent to Banner Elk Greenway)
South Harper Creek
Webb Prong

(4) Buncombe County

(A) Catch and Release/Artificial Lures
Only Trout Waters are as follows:
Carter Creek (game land portion)

(B) Hatchery Supported Trout Waters are as follows:
Bent Creek (headwaters to N.C. Arboretum boundary line)
Cane Creek (headwaters to S.R. 3138 bridge)
Corner Rock Creek (Little Andy Creek to confluence with Walker Branch)
Dillingham Creek (Corner Rock Creek to Ivy Creek)
Ivy Creek (Ivy River) (Dillingham Creek to U.S. 19-23 bridge)
Lake Powhatan

(5) Burke County

(A) Catch and Release/Artificial Lures
Only Trout Waters are as follows:
Henry Fork (portion on South Mountains State Park)

(B) Delayed Harvest Trout Waters are as follows:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)

(C) Hatchery Supported Trout Waters are as follows:
Carroll Creek (game land portion above S.R. 1405)
Henry Fork (lower South Mountain State Park line downstream to S.R. 1919 at Ivy Creek)
Linville River portion within Linville Gorge Wilderness area and portion below Lake James powerhouse from upstream bridge on S.R. 1223 to Muddy Creek)

(D) Special Regulation Trout Waters are as follows:
Catawba River (Muddy Creek to City of Morganton water intake dam)

(E) Wild Trout Waters are as follows:
All waters located on South Mountains State Park, except those waters identified in parts A and B of this Subparagraph

(6) Caldwell County

(A) Delayed Harvest Trout Waters are as follows:
Wilson Creek (game land portion below Lost Cove Creek to Philips Branch)

(B) Hatchery Supported Trout Waters are as follows:
Boone Fork Pond
Buffalo Creek (mouth of Joes Creek to McCloud Branch)
Joes Creek (first falls upstream of S.R. 1574 to confluence with Buffalo Creek)
Wilson Creek (Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing)

		Yadkin River (Happy Valley Ruritan Community Park to S.R. 1515)		(Big) Snowbird Creek (USFS Road 2579 to S.R. 1127 bridge)
(C)		Wild Trout Waters are as follows:		Stecoah Creek (upper game land boundary to Lake Fontana)
		Buffalo Creek (Watauga Co. line to Long Ridge Branch including game land tributaries)		Tulula Creek (S.R. 1201 to lower bridge on S.R. 1275)
		Joes Creek (Watauga Co. line to first falls upstream of the end of S.R. 1574)		West Buffalo Creek
		Rockhouse Creek		Yellow Creek (Lake Santeetlah hydropower pipeline to Cheoah River)
(7)	Cherokee County		(C)	Wild Trout Waters are as follows:
	(A)	Hatchery Supported Trout Waters are as follows:		Little Buffalo Creek
		Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)		South Fork Squally Creek
		Hyatt Creek (Big Dam Branch to Valley River)		Squally Creek
		Junaluska Creek (Ashturn Creek to Valley River)	(D)	Wild Trout Waters/Natural Bait are as follows:
		Shuler Creek (Joe Brown Hwy [S.R. 1325] bridge to Tennessee state line)		Deep Creek
		Valley River (S.R. 1359 to U.S. 19 Business bridge in Murphy)		Franks Creek
	(B)	Wild Trout Waters/Natural Bait are as follows:		Long Creek (game land portion)
		Bald Creek (game land portion)		Haywood County
		Dockery Creek (game land portion)	(A)	Delayed Harvest Trout Waters are as follows:
		North Shoal Creek (game land portion)		West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)
(8)	Clay County		(B)	Hatchery Supported Trout Waters are as follows:
	(A)	Delayed Harvest Trout Waters are as follows:		Cold Springs Creek (Fall Branch to Pigeon River)
		Fires Creek (USFS Rd. 340A to the foot bridge in the USFS Fires Creek Picnic Area)		Jonathan Creek (upstream S.R. 1302 bridge to Pigeon River, except where posted against trespassing)
	(B)	Hatchery Supported Trout Waters are as follows:		Pigeon River (Stamey Cove Branch to upstream U.S. 19-23 bridge)
		Buck Creek (game land portion downstream of U.S. 64 bridge)		Richland Creek (Russ Avenue [U.S. 276] bridge to U.S. 19 bridge)
		Fires Creek (foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300)		West Fork Pigeon River (Tom Creek to Queen Creek, including portions on game lands, except Middle Prong)
		Tusquitee Creek (Compass Creek to lower S.R. 1300 bridge)	(C)	Wild Trout Waters/Natural Bait are as follows:
(9)	Graham County			Hemphill Creek
	(A)	Delayed Harvest Trout Waters are as follows:		Hurricane Creek
		(Big) Snowbird Creek (USFS footbridge at the old railroad junction to USFS Rd. 2579)		Henderson County
	(B)	Hatchery Supported Trout Waters are as follows:	(A)	Delayed Harvest Trout Waters are as follows:
		Calderwood Reservoir (Cheoah Dam to Tennessee state line)		North Fork Mills River (game land portion below the Hendersonville watershed dam)
		Cheoah Reservoir	(B)	Hatchery Supported Trout Waters are as follows:
		Panther Creek (confluence of Stand Creek and Rock Creek to Lake Fontana)		(Rocky) Broad River (end of S.R. 1611 to Rutherford County line)
		Santeetlah Creek (Johns Branch to Lake Santeetlah)		Cane Creek (railroad bridge upstream of S.R. 1551 bridge to U.S. 25 bridge)
				Clear Creek (Laurel Fork to S.R. 1582)

	Green River (Lake Summit powerhouse to game land boundary) (Big) Hungry River	(13)	Scotsman Creek (game land portion) Macon County
(12)	Jackson County	(A)	Delayed Harvest Trout Waters are as follows: Nantahala River (Whiteoak Creek to Nantahala hydropower discharge canal)
	(A) Catch and Release/Artificial Lures Only Trout Waters are as follows: Flat Creek Tuckasegee River (upstream from the Clark property)	(B)	Hatchery Supported Trout Waters are as follows: Burningtown Creek (Left Prong to Little Tennessee River) Cartoogechaye Creek (downstream U.S. 64 bridge to Little Tennessee River) Cliffside Lake Cullasaja River (Sequoyah Dam to U.S. 64 bridge near junction of S.R. 1672)
	(B) Delayed Harvest Trout Waters are as follows: Tuckasegee River (downstream N.C. 107 bridge to the falls located 275 yards upstream of the U.S. 23-441 bridge [marked by a sign on each bank])	(C)	Nantahala River — upper (Dicks Creek to Whiteoak Creek) Nantahala River — lower (Nantahala hydropower discharge canal to Swain Co. line) Queens Creek Lake Wild Trout Waters/Natural Bait are as follows: Chattooga River (S.R. 1100 bridge to South Carolina state line) Jarrett Creek (game land portion) Kimsey Creek Overflow Creek (game land portion) Park Creek Tellico Creek (game land portion) Turtle Pond Creek (game land portion)
	(C) Hatchery Supported Trout Waters are as follows: Balsam Lake Bear Creek Lake Cedar Cliff Lake Cullowhee Creek (Tilley Creek to Tuckasegee River) Dark Ridge Creek (Jones Creek to Scott Creek) Greens Creek (Greens Creek Baptist Church on S.R. 1370 to Savannah Creek) Savannah Creek (Shell Branch to Cagle Branch) Scott Creek (Dark Ridge Creek to Tuckasegee River, except where posted against trespassing) Tanasee Creek Lake Tuckasegee River — upper (John Brown Branch to the downstream N.C. 107 bridge) Tuckasegee River — lower (falls located 275 yards upstream of U.S. 23-441 bridge [marked by a sign on each bank] to S.R. 1534 bridge at Wilmot) Wolf Creek Lake	(14)	Madison County
	(D) Wild Trout Waters are as follows: Gage Creek North Fork Scott Creek Tanasee Creek Whitewater River (downstream from Silver Run Creek to South Carolina state line) Wolf Creek (except Balsam Lake and Wolf Creek Lake)	(A)	Delayed Harvest Trout Waters are as follows: Big Laurel Creek (N.C. 208 bridge to the U.S. 25-70 bridge) Shelton Laurel Creek (N.C. 208 bridge at Belva to the confluence with Big Laurel Creek) Spring Creek (N.C. 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Ave.)
	(E) Wild Trout Waters/Natural Bait are as follows: Buff Creek Chattooga River (S.R. 1100 bridge to the South Carolina state line) Lower Fowler Creek (game land portion)	(B)	Hatchery Supported Trout Waters are as follows: Big Laurel Creek (Mars Hill watershed boundary to the S.R. 1318 [Big Laurel Rd.] bridge downstream of Bearpen Branch) Big Pine Creek (S.R. 1151 bridge to French Broad River) Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy) Max Patch Pond

	Meadow Fork Creek (S.R. 1165 to Spring Creek) Puncheon Fork (Hampton Creek to Big Laurel Creek) Roaring Fork (Fall Branch to Meadow Fork) Shelton Laurel Creek (confluence of Big Creek and Mill Creek to N.C. 208 bridge at Belva) Shut-in Creek Spillcorn Creek Spring Creek (junction of N.C. 209 and N.C. 63 to USFS Rd. 223) West Fork Shut-in Creek (lower game land boundary to confluence with East Fork Shut-in Creek)	(C)	Cane Creek (S.R. 1219 to N.C. 226 bridge) East Fork Grassy Creek Grassy Creek (East Fork Grassy Creek to mouth) Little Rock Creek (Green Creek bridge to Big Rock Creek, except where posted against trespassing) North Toe River (Avery Co. line to S.R. 1121 bridge) Wild Trout Waters are as follows: Green Creek (headwaters to Green Creek bridge, except where posted against trespassing) Little Rock Creek (above Green Creek bridge, including all tributaries, except where posted against trespassing) Wiles Creek (game land boundary to mouth)
(15)	(C) McDowell County (A) Catch and Release/Artificial Lures Only Trout Waters are as follows: Newberry Creek (game land portion) (B) Delayed Harvest Trout Waters are as follows: Catawba River (portion adjacent to Marion Greenway) Curtis Creek (game land portion downstream of the USFS boundary at Deep Branch) Mill Creek (U.S. 70 bridge to I-40 bridge) (C) Hatchery Supported Trout Waters are as follows: Armstrong Creek (Cato Holler line downstream to upper Greenlee line) Catawba River (Catawba Falls Campground to Old Fort Recreation Park) Little Buck Creek (game land portion) Mill Creek (upper railroad bridge to U.S. 70 bridge, except where posted against trespassing) North Fork Catawba River (headwaters to North Cove School at S.R. 1569 bridge)	(17)	Polk County (A) Delayed Harvest Trout Waters are as follows: Green River (Fishtop Falls Access Area to the confluence with Cove Creek) (B) Hatchery Supported Trout Waters are as follows: Green River (Mouth of Cove Creek to the natural gas pipeline crossing) North Pacolet River (Joels Creek to N.C. 108 bridge)
		(18)	Rutherford County (A) Hatchery Supported Trout Waters are as follows: (Rocky) Broad River (Henderson Co. line to U.S. 64/74 bridge, except where posted against trespassing)
		(19)	Stokes County (A) Hatchery Supported Trout Waters are as follows: Dan River (Virginia state line downstream to a point 200 yards below the end of S.R. 1421)
		(20)	Surry County (A) Delayed Harvest Trout Waters are as follows: Ararat River (portion adjacent to the Ararat River Greenway) Mitchell River (.6 mile upstream of the end of S.R. 1333 to the S.R. 1330 bridge below Kapps Mill Dam) (B) Hatchery Supported Trout Waters are as follows: Ararat River (S.R. 1727 bridge downstream to the N.C. 103 bridge) Big Elkin Creek (dam 440 yards upstream of N.C. 268 bridge to a
(16)	(A) Mitchell County Delayed Harvest Trout Waters are as follows: Cane Creek (N.C. 226 bridge to S.R. 1189 bridge) North Toe River (U.S. 19E bridge to N.C. 226 bridge) (B) Hatchery Supported Trout Waters are as follows: Big Rock Creek (headwaters to N.C. 226 bridge at S.R. 1307 intersection)		

	point 265 yards downstream of N.C. 268 [marked by a sign on each bank]) Fisher River (Cooper Creek) (Virginia state line to I-77 bridge) Little Fisher River (Virginia state line to N.C. 89 bridge) Lovills Creek (U.S. 52 Business bridge to Ararat River) Pauls Creek (Virginia state line to .3 miles below S.R. 1625 bridge)	(E)	All waters located on Gorges State Park Whitewater River (downstream from Silver Run Creek to South Carolina state line) Wild Trout Waters/Natural Bait are as follows: North Fork French Broad River (game land portion downstream of S.R. 1326) Thompson River (S.R. 1152 to South Carolina state line, except where posted against trespassing)
(21)	Swain County (A) Delayed Harvest Waters Trout Waters are as follows: Tuckasegee River (U.S. 19 bridge to Slope Street bridge) (B) Hatchery Supported Trout Waters are as follows: Alarka Creek (game land boundary to Fontana Reservoir) Calderwood Reservoir (Cheoah Dam to Tennessee state line) Cheoah Reservoir Connelly Creek (Camp Branch to Tuckasegee River) Deep Creek (Great Smoky Mountains National Park Boundary line to Tuckasegee River) Nantahala River (Macon Co. line to existing Fontana Lake water level)	(23)	Watauga County (A) Catch and Release/Artificial Lures Only Trout Waters are as follows: Laurel Creek (confluence of North and South Fork Laurel creeks to Elk Creek, excluding tributaries) Pond Creek (headwaters to Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake) (B) Delayed Harvest Trout Waters are as follows: Lake Coffey Watauga River (adjacent to intersection of S.R. 1557 and S.R. 1558 to N.C. 105 bridge and S.R. 1114 bridge to N.C. 194 bridge at Valle Crucis) (C) Hatchery Supported Trout Waters are as follows: Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203) Beech Creek Buckeye Creek (Buckeye Creek Reservoir dam to Grassy Gap Creek) Buckeye Creek Reservoir Cove Creek (S.R. 1233 bridge at Zionville to S.R. 1214 bridge at Sherwood) Dutch Creek (second bridge on S.R. 1134 to mouth) Elk Creek (S.R. 1510 bridge at Triplett to Wilkes Co. line, except where posted against trespassing) Laurel Creek (S.R. 1123 bridge at S.R. 1157 intersection to Watauga River) Meat Camp Creek (S.R. 1340 bridge at S.R. 1384 intersection to N.C. 194) Middle Fork New River (adjacent to intersection of S.R. 1539 and U.S. 321 to South Fork New River) Norris Fork Creek
(22)	Transylvania County (A) Catch and Release/Artificial Flies Only Trout Waters are as follows: Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek) (B) Delayed Harvest Waters Trout Waters are as follows: East Fork French Broad River (Gladys Fork to French Broad River) Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls) (C) Hatchery Supported Trout Waters are as follows: Davidson River (Avery Creek to lower USFS boundary) French Broad River (confluence of North Fork French Broad River and West Fork) French Broad River to the Island Ford Rd. [S.R. 1110] Access Area Middle Fork French Broad River (upstream U.S. 178 bridge to French Broad River) West Fork French Broad River (Camp Cove Branch to confluence with North Fork French Broad River) (D) Wild Trout Waters are as follows:		

	South Fork New River (canoe launch 70 yards upstream of U.S. 421 bridge to lower boundary of Brookshire Park)	Middle Fork Reddies River (Clear Prong) (headwaters to bridge on S.R. 1580)
	Stony Fork (S.R. 1500 bridge at S.R. 1505 intersection to Wilkes Co. line)	Middle Prong Roaring River (headwaters to bridge on S.R. 1736)
(D)	Wild Trout Waters are as follows: Dutch Creek (headwaters to second bridge on S.R. 1134) Howard Creek Maine Branch (headwaters to North Fork New River) North Fork New River (from confluence with Maine and Mine branches to Ashe Co. line) Watauga River (Avery Co. line to S.R. 1580 bridge) Winkler Creek (lower bridge on S.R. 1549 to confluence with South Fork New River)	North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on S.R. 1559) Pike Creek Pike Creek Pond South Fork Reddies River (S.R. 1355 bridge to confluence with Middle Fork Reddies River) South Prong Lewis Fork (Fall Creek to S.R. 1155 bridge)
(24)	Wilkes County	(C) Wild Trout Waters are as follows: All waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek downstream to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters regulations apply, and Stone Mountain Creek from falls at Alleghany County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply
(A)	Delayed Harvest Trout Waters are as follows: East Prong Roaring River (Bullhead Creek downstream to Stone Mountain State Park lower boundary) Elk Creek — upper (Watauga Co. line to lower boundary of the Blue Ridge Mountain Club) Elk Creek — lower (portion on Leatherwood Mountains development) Reddies River (Town of North Wilkesboro water intake dam to confluence with the Yadkin River) Stone Mountain Creek (from falls at Alleghany Co. line to confluence with East Prong Roaring River and Bullhead Creek)	(25) Yancey County
(B)	Hatchery Supported Trout Waters are as follows: Basin Creek (S.R. 1730 bridge to confluence with Lovelace Creek) Bell Branch Pond Cub Creek (.5 mile upstream of S.R. 2460 bridge to S.R. 1001 bridge) Darnell Creek (North Prong Reddies River) (downstream ford on S.R. 1569 to confluence with North Fork Reddies River) East Prong Roaring River (Stone Mountain State Park lower boundary to S.R. 1002 bridge) Fall Creek (S.R. 1300 bridge to confluence with South Prong Lewis Fork, except where posted against trespassing)	(A) Catch and Release/Artificial Flies Only Trout Waters are as follows: South Toe River (headwaters to Upper Creek) Upper Creek (B) Delayed Harvest Trout Waters are as follows: Cane River (Blackberry Ridge Rd. to downstream boundary of Cane River County Park) (C) Hatchery Supported Trout Waters are as follows: Bald Mountain Creek (except where posted against trespassing) Cane River (Bee Branch [S.R. 1110] to Bowlens Creek) Price Creek (junction of S.R. 1120 and S.R. 1121 to Indian Creek) South Toe River (Clear Creek to lower boundary line of Yancey Co. Recreation Park, except where posted against trespassing) (D) Wild Trout Waters are as follows: Cattail Creek (bridge at Mountain Farm Community Rd. to N.C. 197 bridge) Lickskillet Creek Middle Creek (game land boundary to mouth)

History Note: Authority G.S. 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2002 (approved by RRC on 6/21/01 and 04/18/02); Temporary Amendment Eff. June 1, 2003; Amended Eff. June 1, 2004 (this amendment replaces the amendment approved by RRC on July 17, 2003); Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 10C .0305 BLACK BASS

(a) The daily creel limit for Largemouth, Smallmouth, and Spotted Bass — collectively known as Black Bass - is five fish, except in waters identified in Paragraphs (b), (c), and (d) of this Rule. There is no minimum size limit for these fish, but only two of them may be less than 14 inches except in waters identified in Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), and (m) of this Rule. There is no closed season, except for waters identified in Paragraph (l) of this Rule.

(b) In Lake Cammack in Alamance County, and Lake Holt in Granville County the daily creel limit for Largemouth Bass is 10 fish and no more than two fish greater than 14 inches may be possessed.

(c) In Lake Santeetlah in Graham County, there is no daily creel limit for Black Bass less than 14 inches. The daily creel limit for Black Bass greater than 14 inches is five fish.

(d) In Lake Chatuge in Clay County, the daily creel limit for Black Bass is 10 fish, the minimum size limit for Largemouth Bass is 12 inches, and there is no minimum size limit for Smallmouth Bass and Spotted Bass.

(e) The minimum size limit for Black Bass is 14 inches in the following:

- (1) Lake Raleigh in Wake County;
- (2) Pungo Lake in Washington and Hyde counties;
- (3) New Lake in Hyde County; and
- (4) Currituck, Roanoke, Croatan, Albemarle sounds, and all their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Chowan River, Yeopim River, Pasquotank River, Perquimans River, North River, Northwest River, Scuppernong River, and Alligator River (including the Alligator/Pungo Canal east of the NC Hwy 264/45 bridge).

(f) In Cane Creek Lake in Union County, and Buckhorn Reservoir in Wilson and Nash counties, the minimum size limit for Largemouth Bass is 16 inches.

(g) In Lake Phelps in Tyrrell and Washington counties, the minimum size limit is 14 inches, and no fish between 16 and 20 inches may be possessed.

(h) In Shearon Harris Reservoir and Lake Hampton in Yadkin County, there is no minimum size limit for Black Bass, but only two Black Bass less than 14 inches and no Black Bass between 16 and 20 inches may be possessed.

(i) In Randleman Reservoir, there is no minimum size limit for Largemouth Bass, but only two Largemouth Bass less than 14 inches and only one Largemouth Bass greater than 20 inches may be possessed.

(j) In Lake Thom-A-Lex in Davidson County, the minimum size limit for Black Bass is 18 inches.

(k) In the Alleghany County portion of New River downstream of Fields Dam (Grayson County, Virginia) there is no minimum size limit for Black Bass, but no fish between 14 and 22 inches in length may be possessed and only one Black Bass greater than 22 inches may be possessed.

(l) In Sutton Lake, the minimum size limit for Black Bass is 14 inches and no Black Bass may be possessed from December 1 through March 31.

(m) In Lake Mattamuskeet and associated canals in Hyde County, the minimum size limit for Largemouth Bass is 16 inches and only one Largemouth Bass greater than 20 inches may be possessed.

(n) For purposes of this Rule, creel limits apply to Largemouth, Smallmouth, and Spotted Bass in aggregate unless otherwise specified.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305; Eff. February 1, 1976;

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

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

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

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

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

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

Temporary Amendment Eff. November 1, 1998;

Amended Eff. April 1, 1999;

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. July 1, 2001;

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

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

Temporary Amendment Eff. June 1, 2003;

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

Amended Eff. August 1, 2017; August 1, 2016; November 1, 2013; August 1, 2012; March 1, 2012; August 1, 2011; August 1, 2010; May 1, 2009; July 1, 2008; May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005.

15A NCAC 10C .0306 CRAPPIE

(a) There is no daily creel limit for Crappie, except for waters identified in Paragraphs (b), (c), (d), and (e) of this Rule. There is no minimum size limit for these fish, except for waters identified in Paragraphs (d) and (e). There is no closed season.

(b) In Buckhorn Reservoir in Wilson and Nash counties, the daily creel limit is 20 fish.

(c) In Lake Chatuge in Clay County, the daily creel limit is 30 fish.

(d) In the following waters, the daily creel limit is 20 fish and the minimum size limit is 10 inches:

- (1) B. Everett Jordan Reservoir;
- (2) Roanoke River and its tributaries downstream of Roanoke Rapids dam;
- (3) Cashie River and its tributaries;
- (4) Middle River and its tributaries;
- (5) Eastmost River and its tributaries; and
- (6) Lake Mattamuskeet and associated canals in Hyde County.

(e) In the following waters, the daily creel limit is 20 fish and the minimum size limit is eight inches:

- (1) Pee Dee River from Blewett Falls Dam to the South Carolina state line;
- (2) Badin Lake;
- (3) Falls Lake (Stanly and Montgomery counties);
- (4) Lake Tillery;
- (5) Blewett Falls Lake;
- (6) Lake Norman;
- (7) Lake Hyco;
- (8) Lake Ramseur;
- (9) Cane Creek Lake;
- (10) Lake Hampton (Yadkin County);
- (11) Tar River downstream of Tar River Reservoir Dam;
- (12) Neuse River downstream of Falls Lake Dam;
- (13) Haw River downstream of Jordan Lake Dam;
- (14) Deep River downstream of Lockville Dam;
- (15) Cape Fear River;
- (16) Waccamaw River downstream of Lake Waccamaw Dam;
- (17) Lumber River including Drowning Creek;
- (18) all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, Sutton Lake in New Hanover County, and waters listed in Paragraph (d) of this Rule; and
- (19) all public waters west of Interstate 77, except Lake Chatuge.

For waters in Subparagraphs (11) through (19), the restrictions apply to all tributaries.

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

Eff. November 1, 2013;

Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015.

15A NCAC 10C .0314 STRIPED BASS

(a) The daily creel limit for Striped Bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (b), (e), (f), (g), (h), (i), and (j) of this Rule. The minimum size limit for these fish is 20 inches, except in waters identified in

Paragraphs (b), (c), (d), (e), (f), (g), (h), (i), and (j) of this Rule. There is no closed season, except for waters identified in Paragraphs (g), (h), (i), (j), and (k) of this Rule.

(b) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on Striped Bass and its hybrids is two in the aggregate and the minimum size limit is 24 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on Striped Bass and its hybrids is four in the aggregate with no minimum size limit.

(c) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for Striped Bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.

(d) In Lake Norman, Arrowhead Lake (Anson Co.), High Rock Pond (Caswell Co.), Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for Striped Bass and its hybrids is 16 inches.

(e) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.

(f) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for Striped Bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.

(g) In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95 not specified in Paragraphs (f), (h), (i), and (j) of this Rule, the daily creel limit for Striped Bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing Striped Bass is closed from May 1 through September 30.

(h) In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam, the season for taking and possessing Striped Bass is closed year-round.

(i) In the inland and joint fishing waters [as identified in 15A NCAC 10C .0107(1)(e)] of the Roanoke River Striped Bass Management Area, which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing Striped Bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for Striped Bass and its hybrids is two fish in the aggregate, and the minimum size limit is 18 inches. No fish between 22 inches and 27 inches in length shall be possessed in the daily creel limit. Only one fish larger than 27 inches may be possessed in the daily creel limit.

(j) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), Striped Bass fishing season, size limits and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.

(k) In accordance with G.S. 113-292, the Executive Director may, by proclamation, suspend, or extend the hook-and-line season for Striped Bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.

History Note: Authority G.S. 113-134; 113-292; 113-304; 113-305; Eff. November 1, 2013; Amended Eff. August 1, 2016; August 1, 2015; August 1, 2014; Amended Eff. Pending Legislative Review.

15A NCAC 10C .0316 TROUT

(a) The daily creel limit for trout in Hatchery-Supported Trout Waters is seven fish. There is no minimum size limit for these fish. The open season is from 7 a.m. on the first Saturday in April until March 1, except for waters designated in Paragraphs (d) and (g) of this Rule.

(b) The daily creel limit for trout in Wild Trout Waters and Wild Trout/Natural Bait Trout Waters is four fish. The minimum size limit for these fish is seven inches. There is no closed season.

(c) No trout may be harvested from Catch and Release/Artificial Lures Only Trout Waters or Catch and Release/Artificial Flies Only Trout Waters. Trout may not be possessed while fishing these waters.

(d) The daily creel limit for trout in Delayed Harvest Trout Waters is seven fish. There is no minimum size limit for these fish. The Youth-only Delayed Harvest Trout Water Season is from 6 a.m. on the first Saturday in June until 12 p.m. that same day. During this season only individuals under the age of 18 may fish. From 12 p.m. on the first Saturday in June until September 30, the Delayed Harvest Trout Waters Season is open for all anglers. From October 1 to one-half hour after sunset on the Friday before the first Saturday in June, trout may not be harvested or possessed while fishing these waters. Delayed Harvest Trout Waters are closed to all fishing from one-half hour after sunset on the Friday before the first Saturday in June to 6 a.m. on the first Saturday in June.

(e) The daily creel limits, size limits, and seasons for trout in Special Regulation Trout Waters are as follows: in the Catawba River (Burke County) from Muddy Creek to the City of Morganton water intake dam the daily creel limit is seven fish. There is no minimum size limit for these fish, but only one may be greater than 14 inches. There is no closed season.

(f) The daily creel limit for trout in undesignated trout waters is seven fish. There is no minimum size limit for these fish.

(g) There is no closed season on taking trout from Linville River within Linville Gorge Wilderness Area and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing.

(h) In designated Public Mountain Trout Waters the season for taking all species of fish is the same as the trout fishing season.

(i) All trout water designations and manners of take are set forth in 15A NCAC 10C .0205.

History Note: Authority G.S. 113-134; 113-292; Eff. November 1, 2013; Amended Eff. August 1, 2017; August 1, 2015.

15A NCAC 10C .0318 WHITE BASS

The daily creel limit for White Bass is 10 fish. There is a 14 inch minimum size limit for these fish. There is no closed season for White Bass.

History Note: Authority G.S. 113-134; 113-292; Eff. November 1, 2013. Amend Eff. August 1, 2017.

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

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

- (1) a net of dip net design not greater than six feet across;
- (2) a seine of not greater than 12 feet in length (except in Lake Waccamaw in Columbus County where there is no length limitation) and with a bar mesh measure of not more than one-fourth inch;
- (3) a cast net;
- (4) a bow net for the seasons and waters in which the use of bow nets is authorized in 15A NCAC 10C .0407;
- (5) a dip net when used in conjunction with a licensed hand-crank electrofisher;
- (6) a gig (except in Public Mountain Trout Waters);
- (7) up to three traps for the seasons and waters in which the use of traps is authorized in 15A NCAC 10C .0407;
- (8) up to two eel pots;
- (9) a spear gun for the seasons and waters in which the use of a spear gun is authorized in 15A NCAC 10C .0407;
- (10) minnow traps not exceeding 12 inches in diameter and 24 inches in length, with funnel openings not exceeding one inch in diameter, and that are under the immediate control and attendance of the individual operating them;
- (11) a hand-held line with a single bait attached;
- (12) a single, multiple-bait line for taking crabs not to exceed 100 feet in length, marked on each end with a solid float no less than five inches in diameter, bearing legible and indelible identification of the user's name and address, and under the immediate control and attendance of the person using the device, with a limit of one line per person and no more than one line per vessel; or
- (13) a collapsible crab trap with the largest open dimension not greater than 18 inches and that by design is collapsed at all times when in the water, except when it is being retrieved or lowered to the bottom, with a limit of one trap per person.

(b) The use of equipment under this Rule only requires a valid license that provides basic inland fishing privileges.

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

(d) Game fishes taken while netting for bait shall be returned unharmed to the water, except white perch may be taken when captured in a cast net being used to collect nongame fishes for bait or personal consumption in all impounded waters west of I-95 and in the Tar River Reservoir (Nash County).

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

- (1) No more than 25 eels, none of which may be less than 9 inches in length, shall be taken from or possessed, regardless of origin, while boating on or fishing in inland fishing waters;
- (2) While boating on or fishing in the following inland fishing waters, no river herring (alewife and blueback) that are greater than six inches in total length shall be taken, and no such river herring shall be possessed regardless of origin:
 - (A) Roanoke River downstream of Roanoke Rapids Dam;
 - (B) Tar River downstream of Rocky Mount Mill Dam;
 - (C) Neuse River downstream of Milburnie Dam;
 - (D) Cape Fear River downstream of Buckhorn Dam;
 - (E) Pee Dee River downstream of Blewett Falls Dam;
 - (F) Lumber River including Drowning Creek;
 - (G) the tributaries to the rivers listed above; and
 - (H) all other inland fishing waters east of Interstate 95.
- (3) No more than 50 crabs per person per day or 100 per vessel per day with a minimum carapace width of five inches (point to point) shall be taken.

(f) Any fishes taken for bait purposes are included within the daily possession limit for that species.

(g) It is unlawful to take nongame fish for bait or any other fish bait from designated public mountain trout waters and from the bodies of water specified for the following counties:

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

(h) In the waters of the Little Tennessee River, including all the tributaries and impoundments thereof, and on adjacent shorelines, docks, access ramps, and bridge crossings, it is unlawful to

transport, possess, or release live river herring (alewife and blueback).

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

Eff. February 1, 1976;

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

Temporary Amendment Eff. July 1, 2001;

Amended Eff. July 18, 2002;

Temporary Amendment Eff. June 1, 2003;

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

Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015; August 1, 2014; August 1, 2013; August 1, 2010; May 1, 2008; May 1, 2007; May 1, 2006.

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

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

- (1) "Permanent Hunting Blind" means any structure that is used for hunter concealment, constructed from manmade or natural materials, and that is not disassembled and removed at the end of each day's hunt.
- (2) "Target shooting" means the discharge of a firearm for purposes other than hunting, trapping, or self-defense.
- (3) "Youth" means individuals under 18 years of age.

(b) **Trespass.** Entry on game lands for purposes other than hunting, trapping, or fishing shall be as authorized by the landowner. The Wildlife Resources Commission has identified the following areas on game lands that have additional restrictions on entry or usage:

- (1) **Archery Zone.** On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting and falconry only. On these areas, deer of either sex may be taken on all open days of any applicable deer season.
- (2) **Safety Zone.** On portions of game lands posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land. Falconry is exempt from this provision.
- (3) **Restricted Firearms Zone.** On portions of game lands posted as "Restricted Firearms Zones" the use of centerfire rifles is prohibited.
- (4) **Restricted Zone.** Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for

establishing the Restricted Zone and the person or persons requesting entry are able to demonstrate a valid need or such person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

(5) Temporary Restricted Zone. Portions of game lands posted as "Temporary Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. An area of a game land shall be declared a Temporary Restricted Zone when there is a danger to the health or welfare of the public due to topographical features or activities occurring on the area.

(6) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.

(7) Restricted Deer Hunting Zone. On portions of game lands posted as "Restricted Deer Hunting Zones" the use of dogs for taking deer is prohibited, except as allowed by permit as provided in G.S. 113-264(d).

(8) Day Use Only Zone. On portions of game lands posted as "Day Use Only Zones" the use by the general public shall be prohibited from sunset to sunrise.

The Commission shall conduct a public input meeting in the area where the game land is located before establishing the following zones: archery, restricted firearms, restricted zone, restricted deer hunting, or day use only. After the input meeting, the public comments shall be presented at an official Commission meeting for final determination.

(c) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county, or municipality, except as permitted by the landowner.

(d) Use of weapons. No person shall discharge:

- (1) any weapon within 150 yards of any game land building or designated game land camping area, except where posted otherwise;
- (2) any weapon within 150 yards of any residence located on or adjacent to game lands, except on Butner-Falls of Neuse and Jordan game lands; and
- (3) any firearm within 150 yards of any residence located on or adjacent to Butner-Falls of Neuse and Jordan Game Lands.

No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted

waterfowl impoundment on any game land, except shotgun shells containing lead buckshot may be used while deer hunting. Every individual carrying a concealed handgun shall adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. On Butner-Falls of Neuse, Jordan, Kerr Scott, and Vance game lands, no person shall possess loaded firearms, ammunition, bows and arrows, crossbows, or other weapons except as provided in the Code of Federal Regulations, Title 36, Chapter III, Part 327.13, which is incorporated by reference, including subsequent amendments and editions, free of charge, at: http://www.ecfr.gov/cgi-bin/text-idx?SID=75b0c14fb2c26906cf64a267eb69b052&mc=true&node=se36.3.327_113&rgn=div8. On Buckhorn, Chatham, Harris, Hyco, Lee, Mayo, and Sutton Lake game lands; Pee Dee River Game Land north of U.S. 74; and that portion of R. Wayne Bailey-Caswell Game Land that is located north of U.S. 158 and east of N.C. 119, no person shall possess a firearm during closed hunting seasons or closed hunting days for game birds or game animals, except under the following conditions:

- (1) the firearm is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm;
- (2) the firearm is cased or not immediately available for use;
- (3) the firearm is used by persons participating in field trials on field trial areas; or
- (4) the firearm is possessed in designated camping areas for defense of persons and property.

(e) Game Lands License: Hunting and Trapping

- (1) Requirement. Except as provided in Subparagraph (4) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, running dogs, or training dogs using wildlife shall have in his or her possession a game lands license in addition to the appropriate hunting or trapping license, or a license that conveys the game land use privilege.
- (2) For commission-sanctioned field trials, active participants (as defined in 15A NCAC 10B .0114) in a field trial using wildlife shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege, except non-residents may substitute hunting licenses from their state(s) of residence. For any other field trial using wildlife occurring on game lands, judges and active participants shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege.
- (3) Exceptions:
 - (A) a person under 16 years of age may hunt on game lands on the license of his parent or legal guardian;
- (4)

(B) on the game lands described in Rule .0103(e)(1) of this Section, the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

(f) **Field Trials and Training Dogs.** Any individual or organization sponsoring a field trial on the Sandhills Field Trial area or the Laurinburg Fox Trial facility, shall file with the Commission an application to use the area and facility accompanied by the facility use fee computed at the rate of two hundred dollars (\$200.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of seventy-five dollars (\$75.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Sandhills Field Trial area or the Laurinburg Fox Trial facility without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the approved use. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than 16 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than four days may be scheduled during any calendar week; provided, that a field trial requiring more than four days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of 16 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between October 22 and November 18 and between December 3 and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays, and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Dogs may not be trained or permitted to run unleashed from March 15 through June 15 on any game land located east of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Additionally, on game lands located west of I-95 where special hunts are scheduled for sportsmen participating in the Disabled Sportsman Program, dogs may not be trained or allowed to run unleashed during legal big game hunting hours on the dates of the special hunts. A field trial shall be authorized when such field trial does not conflict with other planned activities on the Game Land or field trial facilities, and the applying organization can demonstrate their experience and expertise in conducting genuine field trial activities. Entry to physical facilities, other than by field trial organizations under permit, shall be granted when they do not conflict with other planned activities previously approved by the Commission and they do not conflict with the mission of the agency.

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

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

On those areas of state-owned land known collectively as the Roanoke River Wetlands, controlled trapping is allowed under a permit system.

(h) **Vehicular Traffic.** No person shall drive a motorized vehicle on any game land except on those roads constructed, maintained, and opened for vehicular travel and those trails posted for vehicular travel, unless such person:

- (1) is driving in the vehicle gallery of a scheduled bird dog field trial held on the Sandhills Game Land; or
- (2) is a disabled sportsman as defined in Paragraph (k) of this Rule or holds a Disabled Access Program Permit as described in Paragraph (m) of this Rule and is abiding by the rules described in Paragraph (m).

(i) **Camping.**

- (1) No person shall camp on any game land except on an area designated by the landowner for camping.
- (2) On game lands owned by the State of North Carolina, where the North Carolina Wildlife Resources Commission is the primary custodian, the maximum period of consecutive overnight camping at any designated camping area is 14 days within any 30-day period from May 1 through August 31. After 14 consecutive days of camping, all personal belongings shall be removed from the game land.

(j) **Swimming.** Swimming is prohibited in the lakes located on the Sandhills Game Land.

(k) **Disabled Sportsman Program.** In order to qualify for permit hunts for disabled sportsmen offered by the Commission and use of designated blinds during those hunts, an individual shall possess a Disabled Veteran Sportsman license, a Totally Disabled Sportsman license, or a disabled sportsman hunt certification issued by the Commission. In order to qualify for the certification, the applicant shall provide medical certification of one or more of the following disabilities:

- (1) missing 50 percent or more of one or more limbs, whether by amputation or natural causes;
- (2) paralysis of one or more limbs;
- (3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane;
- (4) disease, injury, or defect confining the person to a wheelchair, walker, or crutches; or
- (5) deafness.

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

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

Each program participant may be accompanied by one companion provided such companion has in his possession the companion card issued by the Commission. Hunters who qualify under the Disabled Sportsman Program and their companions may access special hunting blinds for people with disabilities during regularly scheduled, non-permit hunting days on a first come basis, except for those blinds located on the Restricted Area of Caswell Game Land.

(l) **Release of Animals and Fish.** It is unlawful to release pen-raised animals or birds, wild animals or birds, domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes, or feral animals, or hatchery-raised fish on game lands without prior written authorization. It is unlawful to move wild fish from one stream to another on game lands without prior written authorization. Written authorization shall be given when release of such animals is determined by a Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and such releases are in the public interest or advance the programs and goals of the Wildlife Resources Commission.

(m) **Non-Highway Licensed Vehicles.** It is unlawful to operate motorized land vehicles not licensed for highway use on Game Lands except for designated areas on National Forests. Disabled persons as defined in Paragraph (k) of this Rule and people who have obtained a Disabled Access Program permit are exempt from the previous sentence but shall comply with the terms of their permit. Furthermore, disabled persons, as defined under the federal Americans with Disabilities Act (42 U.S.C. 126) may use wheelchairs or other mobility devices designed for indoor pedestrian use on any area where foot travel is allowed.

(n) **Disabled Access Program.** Permits issued under this program shall be based upon medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel and ungated or open-gated roads otherwise closed to vehicular traffic

on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to such use. Those game lands, or parts thereof, where this Paragraph applies are designated in the game land rules and map book. This Paragraph does not permit vehicular access on fields, openings, roads, paths, or trails planted for wildlife food or cover. One companion, who is identified by a companion card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle where it can easily be seen by Commission staff outside the vehicle. It is unlawful for anyone other than disabled persons as defined in Paragraph (k) of this Rule and those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

(o) **Public nudity.** Public nudity, including nude sunbathing, is prohibited on any Game Land, including land or water. For the purposes of this Section, "public nudity" means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.

(p) **Shooting Ranges.** On public shooting ranges managed by the Commission, no person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills, or for other safe uses of firearms and archery equipment. All other uses, including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are prohibited, except for activities that have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity is available for inspection by wildlife enforcement officers at the time the activity is taking place. No person, when using any shooting range, shall deposit any debris or refuse on the grounds of the range. This includes any items used as targets, except that clay targets broken on the range, by the shooter, may be left on the grounds where they fall. No person shall shoot any items made of glass on the grounds of the range. No person may leave any vehicle or other obstruction in such a location or position that it will prevent, impede, or inconvenience the use by other persons of any shooting range. No person shall leave parked any vehicle or other object at any place on the shooting range other than such a place or zone as is designated as an authorized parking zone and posted or marked as such. No person shall handle any firearms or bow and arrow on a shooting range in a careless or reckless manner. No person shall intentionally shoot into any target holder, post, or other permanent fixture or structure while using a shooting range. No person shall shoot a firearm in a manner that would cause any rifled or smoothbore projectiles to travel off of the range, except that shotgun shot, size No. 4 or smaller may be allowed to travel from the range if it presents no risk of harm or injury to any person(s). Persons using a shooting range shall obey posted range safety rules and those persons who violate range

safety rules or create a public safety hazard shall leave the shooting range if directed to by law enforcement officers or to leave by Commission employees. No person shall handle any firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited. Open days and hours of operation shall be designated on signs and at least one such sign shall be posted at the entrance to each shooting range. No person, when using any shooting range, shall do any act that is prohibited or neglect to do any act that is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.

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

History Note: Authority G.S. 113-129; 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 143-318.10;

Eff. February 1, 1976;

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

Temporary Amendment Eff. October 11, 1993;

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

Temporary Amendment Eff. July 1, 1999;

Amended Eff. July 1, 2000;

Temporary Amendment Eff. August 31, 2001;

Amended Eff. August 1, 2002;

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

Amended Eff. January 1, 2013; January 1, 2012; June 1, 2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007; May 1, 2006; November 1, 2005;

Temporary Amendment Eff. July 1, 2014;

Amended Eff. August 1, 2017; August 1, 2016; May 1, 2015; August 1, 2014.

15A NCAC 10D .0103 HUNTING ON GAME LANDS

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

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

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

(d) Time and Manner of Taking. Hunting is allowed on game lands only during the open season for game animals and game birds, unless hunting is allowed by permit. Individual game lands or parts thereof may be closed to hunting or limited to specific dates by this Chapter. Persons shall hunt only with weapons

lawful for the open game animal or game bird seasons. On managed waterfowl impoundments, persons shall:

- (1) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;
- (2) not hunt after 1:00 p.m. on such hunting dates;
- (3) not set decoys out prior to 4:00 a.m.;
- (4) remove decoys by 3:00 p.m. each day; and
- (5) not operate any vessel or vehicle powered by an internal combustion engine.

On designated youth waterfowl days occurring after the end of the regular waterfowl seasons only, youths may hunt on managed waterfowl impoundments from $\frac{1}{2}$ hour before sunrise to sunset. Restrictions (1), (3), and (5) in this Paragraph shall apply. On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone." No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal that has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the Commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods.

(e) Definitions:

- (1) For purposes of this Section, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.
- (2) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days, except for game lands in this Rule that specifically allow hunting on Tuesdays, Thursday, and Fridays. Falconry may also be practiced on Sundays. These "open days" also apply to either-sex deer hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (3) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons.

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

(g) Bear Sanctuaries. On Three Days per Week Areas and Six Days per Week Areas, bears shall not be taken on lands designated

and posted as bear sanctuaries except when authorized by permit only elsewhere in this Chapter. Feral Swine shall not be taken with the use of dogs on bear sanctuaries. Dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15 on bear sanctuaries in and west of the counties and parts of counties described in 15A NCAC 10B .0109.

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

- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan, and Stanly counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county, and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davidson, Davie, Rowan, and Stanly counties.
 - (C) On the Lick Creek Tract, deer and bear hunting is archery only.
- (2) Alligator River Game Land in Tyrrell County
 - (A) Six Day per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.
- (3) Angola Bay Game Land in Duplin and Pender counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Target shooting is prohibited.
- (4) Bachelor Bay Game Land in Bertie, Martin, and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (5) Bertie County Game Land in Bertie County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (6) Bladen Lakes State Forest Game Land in Bladen County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Except for blackpowder firearms, rifles larger than .22 caliber rimfire shall not be used.
- (D) On the Singletary Lake Tract, the use of dogs for hunting deer and bear is prohibited.
- (E) Wild turkey hunting on the Singletary Lake Tract is by permit only.
- (F) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.
- (G) The use of dogs for pursuing or taking foxes is prohibited March 15 through July 15.
- (7) Brinkleyville Game Land in Halifax County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited.
- (8) Brunswick County Game Land in Brunswick County
 - (A) Hunting is by permit only.
 - (B) The use of dogs for hunting deer is prohibited.
- (9) Buckhorn Game Land in Orange County
 - (A) Hunting is by permit only.
 - (B) Horseback riding is prohibited.
- (10) Buckridge Game Land in Tyrrell County.
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days of the second week of the December Bear Season. If any of these days falls on a Tuesday, Friday or Saturday, bear hunting is allowed on those days.
 - (D) Target shooting is prohibited.
- (11) Buffalo Cove Game Land in Caldwell and Wilkes Counties
 - (A) Six Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Saturday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the

Deer With Visible Antlers Season. Deer may be taken with blackpowder firearms on open days beginning the Monday on or nearest October 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season.

(C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.

(12) Bullard and Branch Hunting Preserve Game Lands in Robeson County

(A) Three Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(13) Butler - Falls of Neuse Game Land in Durham, Granville, and Wake counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Waterfowl shall be taken only on:

(i) the opening and closing days of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

(iii) Tuesdays, Thursdays, and Saturdays of the applicable waterfowl seasons.

On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.

(D) Horseback riding is prohibited.

(E) Target shooting is prohibited.

(F) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.

(G) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.

(H) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals. On designated bicycle riding areas, the use of bicycles is allowed from May 15 through August 31, and

(I) on Sundays only from September 1 through May 14.

(J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.

(14) Camping is allowed at any time in the designated Mountains-to-Sea Trail Camping Area and shall not exceed a maximum stay of two consecutive nights. Campfires are prohibited in this camping area.

Buxton Woods Game Land in Dare County:

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Target shooting is prohibited.

(15) Cape Fear River Wetlands Game Land in Pender County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.

(D) The use of dogs for hunting deer is prohibited on the portion of the game land that is west of the Black River, north of Roan Island, east of Lyon Swamp Canal to Canetuck Road, and south of NC 210 to the Black River.

(E) Target shooting is prohibited.

(16) Carteret County Game Land in Carteret County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) The use of dogs for hunting deer is prohibited.

(17) R. Wayne Bailey-Caswell Game Land in Caswell County

(A) Three Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is allowed only during June, July, and August, and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic and on those gated roads and trails that are posted for equestrian use. People age 16 or older

horseback riding on this game land shall possess a Game Lands license.

(D) The area encompassed by the following roads is permit-only for all quail and woodcock hunting, and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR 1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC 62 to the intersection of SR 1736, east on SR 1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.

(E) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.

(F) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.

(G) Target shooting is prohibited, except at the R. Wayne Bailey-Caswell Shooting Range.

(18) Chatham Game Land in Chatham County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Wild turkey hunting is by permit only.

(D) Horseback riding is allowed only during June, July, and August; and on Sundays during the remainder of the year except during open turkey and deer seasons.

(E) Target shooting is prohibited.

(19) Chowan Game Land in Chowan County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.

(20) Chowan Swamp Game Land in Bertie, Gates, and Hertford counties.

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Bear hunting is restricted to the first three hunting days during the November bear season and the first three hunting days during the second week of the December bear season except that portion of Chowan Swamp Game Land in Gates County that is

east of Highway 158/13, south of Highway 158, west of Highway 32, and north of Catherine Creek and the Chowan River where the bear season is the same as the season dates for the Gates County bear season.

(D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.

(E) Horseback riding is prohibited except during May 16 through August 31 and on Sundays only September 1 through May 15 on those roads that are open to vehicular traffic and on those gated roads and trails posted for equestrian use.

(21) Cold Mountain Game Land in Haywood County

(A) Six Days per Week Area

(B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.

(C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(22) Columbus County Game Land in Columbus County.

(A) Three Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(23) Croatan Game Land in Carteret, Craven, and Jones counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Waterfowl shall be taken only on the following days:

(i) the opening and closing days of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) Beginning on the first open waterfowl day in October through the end of the waterfowl season, waterfowl hunting from designated Disabled Sportsmen blinds on the Catfish Lake Waterfowl Impoundment is by permit only.

(E) Dove hunting is by permit only for the first two open days of dove season on posted areas. During the rest of dove season, no permit is required to hunt doves.

(24) Currituck Banks Game Land in Currituck County

(A) Six Days per Week Area

(B) Permanent waterfowl blinds in Currituck Sound on these game lands shall be hunted by permit only from November 1 through the end of the waterfowl season.

(C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not use a firearm.

(D) The boundary of the game land shall extend 5 yards from the edge of the marsh or shoreline.

(E) Dogs are allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.

(F) No screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.

(G) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.

(25) Dare Game Land in Dare County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

(C) No hunting is allowed on posted parts of bombing range.

(D) The use and training of dogs is prohibited from March 1 through June 30.

(26) Dover Bay Game Land in Craven County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers season.

(27) DuPont State Forest Game Lands in Henderson and Transylvania counties

(A) Hunting is by permit only.

(B) The training and use of dogs for hunting is prohibited except by special hunt permit holders during scheduled permit hunts.

(28) Elk Knob Game Land in Watauga County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

(29) Embro Game Land in Halifax and Warren counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited.

(30) Goose Creek Game Land in Beaufort and Pamlico counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:

(i) the opening and closing days of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) Beginning on the first open waterfowl season day in October and through the end of the waterfowl season, waterfowl hunting is by permit only on the following waterfowl impoundments: Pamlico Point, Campbell Creek, Hunting Creek, Spring Creek, Smith Creek, and Hobucken.

(E) On Pamlico Point and Campbell Creek Waterfowl Impoundments all activities, except waterfowl hunting on designated waterfowl hunting days and trapping during the trapping season, are restricted to the posted Scouting-only Zone during the period November 1 through March 15.

(F) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.

(G) Hunting and vehicular access on the Parker Farm Tract is restricted from September 1 through January 1 and April 1 through May 15 to individuals that possess a valid hunting opportunity permit.

(31) Green River Game Land in Henderson, and Polk counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited.

(32) Green Swamp Game Land in Brunswick County (A) Six Days per Week Area (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.	(35) Hill Farm Game Land in Stokes County-hunting and trapping is by permit only. (36) Holly Shelter Game Land in Pender County (A) Six Days per Week Area (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(33) Gull Rock Game Land in Hyde County (A) Six Days per Week Area (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season. (C) Waterfowl on posted waterfowl impoundments shall be taken only on the following days: (i) the opening and closing days of the applicable waterfowl seasons; and (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and (iii) Tuesdays and Saturdays of the applicable waterfowl season. (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas. (E) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season, except for that portion designated as bear sanctuary.	(C) Waterfowl may be taken only on the following days: (i) the opening and closing days of the applicable waterfowl seasons; (ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and (iii) Tuesdays and Saturdays of the applicable waterfowl seasons. (D) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas designated and posted as camping areas. (E) On that portion north of the Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, deer hunting and bear hunting are permit only. (F) The use of dogs for hunting deer and bear is prohibited: (i) all open days on that portion of the game land that is south of Baby Branch extending west to Stag Park Road, west of Shaw Road, north of Meeks Road extending west to Stag Park Road and east of Stag Park Road; and (ii) on Tuesdays, Thursdays, and Fridays, with the exception of Thanksgiving, Christmas, and New Year's days, and except for the area north of Bear Garden Road, west of Shaw Road to Baby Branch, east of the Northeast Cape Fear River, south of NC 53 and west of NC 50, where the use of dogs for deer and bear hunting is by permit only. (G) Hunting and vehicular access on the Pender 4 Tract is restricted from September 1 to the last day of February and April 1 to May 15 to individuals that possess valid hunting opportunity permits, unless otherwise authorized by the Wildlife Resources Commission.
(34) Harris Game Land in Chatham, Harnett, and Wake counties (A) Six Days per Week Area (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. (C) Waterfowl shall be taken only on the following days: (i) Tuesdays, Fridays, and Saturdays of the applicable waterfowl seasons; (ii) Thanksgiving, Christmas, and New Year's Days; and (iii) the opening and closing days of the applicable waterfowl seasons. (D) The use or construction of permanent hunting blinds shall be prohibited. (E) Wild turkey hunting is by permit only, except on those areas posted as an archery zone. (F) Target shooting is prohibited. (G) Horseback riding is prohibited.	

(H) Hunters who possess a Disabled Access Permit may operate an All Terrain Vehicle on and within 100 yards of trails designated for Disabled Sportsman Access.

(I) Target shooting is prohibited, except on the Holly Shelter Shooting Range.

(J) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.

(37) Hyco Game land in Person County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Target shooting is prohibited.

(38) J. Morgan Futch Game Land in Tyrrell County - Permit Only Area.

(39) Johns River Game Land in Burke County

(A) Hunting is by permit only.

(B) During permitted deer hunts, deer of either sex may be taken by permit holders.

(C) Entry on posted waterfowl impoundments is prohibited October 1 through March 31, except by lawful waterfowl hunting permit holders and only on those days written on the permits.

(D) The use or construction of permanent hunting blinds is prohibited.

(40) Jordan Game Land in Chatham, Durham, Orange, and Wake counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Waterfowl may be taken only on:

(i) Mondays, Wednesdays, and Saturdays of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, and New Year's Days; and

(iii) the opening and closing days of the applicable waterfowl seasons.

(D) Horseback riding is prohibited except on those areas posted as American Tobacco Trail and other areas posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed only during June, July, and August, and on Sundays the remainder of the year except during open turkey

and deer seasons. People age 16 or older who ride horseback on trails occurring entirely within the game land boundaries shall possess a Game Lands license.

(E) Target shooting is prohibited.

(F) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.

(G) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.

(41) Juniper Creek Game Land in Brunswick and Columbus counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the Deer With Visible Antlers Season.

(C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.

(42) Kerr Scott Game Land in Wilkes County

(A) Six Days per Week Area

(B) Use of centerfire rifles is prohibited.

(C) Use of blackpowder firearms, shotguns, or rifles for hunting deer during the applicable Deer With Visible Antlers Season is prohibited.

(D) Tree stands shall not be left overnight; and no screws, nails, or other objects penetrating the bark shall be used to attach a tree stand or blind to a tree.

(E) Deer of either sex may be taken on all open days of the applicable Deer With Visible Antlers season.

(F) Hunting on posted waterfowl impoundments is by permit only.

(G) The use of firearms for hunting wild turkey is prohibited.

(43) Lantern Acres Game Land in Tyrrell and Washington counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Wild turkey hunting is by permit only.

(D) The use of dogs for hunting deer on the Godley Tract is prohibited.

(E) Waterfowl hunting on posted waterfowl impoundments is by permit only.

(44) Lee Game Land in Lee County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Target shooting is prohibited.

(45) Light Ground Pocosin Game Land in Pamlico County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer with Visible Antlers Season.

(46) Linwood Game Land in Davidson County

(A) Six Days per Week Area

(B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.

(47) Lower Fishing Creek Game Land in Edgecombe and Halifax counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited.

(D) The use of dogs for hunting deer is prohibited.

(48) Mayo Game Land in Person County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Waterfowl shall be taken only on:

(i) Tuesdays, Thursdays, and Saturdays applicable waterfowl seasons;

(ii) Christmas and New Year's Days; and

(iii) the opening and closing days of the applicable waterfowl seasons.

(D) Target shooting is prohibited.

(49) Mitchell River Game Land in Surry County

(A) Three Days per Week Area

(B) Deer of either sex may be taken the last six days of the applicable Deer with Visible Antlers Season.

(C) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.

(50) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain, and Transylvania counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.

(51) Needmore Game Land in Macon and Swain counties.

(A) Six Days per Week Area

(B) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15.

(C) On posted dove fields, dove hunting on the opening day of dove season is by permit only.

(52) Neuse River Game Land in Craven County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(53) New Lake Game Land in Hyde and Tyrrell counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(54) Nicholson Creek Game Land in Hoke County

(A) Three Days per Week Area

(B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving.

(C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the Wednesday of the second week thereafter.

(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.

(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

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

(G) Wild turkey hunting is by permit only.

(H) On Lake Upchurch, the following activities are prohibited:

(i) Operating any vessel or vehicle powered by an internal combustion engine; and

(ii) Swimming.

(I) Target shooting is prohibited.

(55) North River Game Land in Camden and Currituck counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.

(D) Hunting on the posted waterfowl impoundment is by permit only.

(56) Northwest River Marsh Game Land in Currituck County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) The boundary of the Game Land shall extend five yards from the edge of the marsh or shoreline.

(57) Pee Dee River Game Land in Anson, Montgomery, Richmond, and Stanly counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Use of centerfire rifles is prohibited in that portion in Anson and Richmond counties North of US-74.

(D) Target shooting is prohibited.

(E) Horseback riding is allowed only on roads opened to vehicular traffic and only during the following times:

(i) during June, July, and August; and

(ii) on Sundays during the other months or parts of months when deer and turkey seasons are closed.

(58) Perkins Game Land in Davie County

(A) Three Days per Week Area

(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited from November 1 through January 1.

(59) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Yancey counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).

(60) Pond Mountain Game Land in Ashe County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer with Visible Antlers Season.

(C) Horseback riding is prohibited except on designated trails from May 16 through August 31 and Sundays from September 1 through October 31. All horseback riding is prohibited from November 1 through May 15.

(61) Pungo River Game Land in Hyde County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(62) Rendezvous Mountain State Forest Game Land in Wilkes County

(A) Three Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

(C) Bear hunting is prohibited.

(63) Rhodes Pond Game Land in Cumberland and Harnett counties

(A) Hunting is by permit only.

(B) Swimming is prohibited on the area.

(64) Roanoke River Wetlands in Bertie, Halifax, Martin, and Northampton counties

(A) Hunting is by Permit only.

(B) Vehicles are prohibited on roads or trails except those operated on Commission business or by permit holders.

(C) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas, provided, however, that camping is allowed at any time within 100 yards of the Roanoke River on the state-owned portion of the game land.

(65) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.

(66) Robeson Game Land in Robeson County

(A) Three Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(67) Rockfish Creek Game Land in Hoke County

(A) Three Days per Week Area

(B) Deer of either sex may be taken with bow and arrow on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving.

(C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving through the

Wednesday of the second week thereafter.

(D) The Deer With Visible Antlers season consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving.

(E) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

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

(G) Wild turkey hunting is by permit only.

(H) Taking fox squirrels is prohibited.

(I) Target shooting is prohibited.

(68) Rocky Run Game Land in Onslow County - Hunting is by permit only.

(69) Sampson Game Land in Sampson County

(A) Three Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Target shooting is prohibited.

(70) Sandhills Game Land in Hoke, Moore, Richmond, and Scotland counties

(A) Three Days per Week Area

(B) Hunting is prohibited on the J. Robert Gordon Field Trial Grounds from October 22 through March 31 except as follows:

(i) deer may be taken with archery equipment on all the open days of the bow-and-arrow season through the fourth Friday before Thanksgiving; with blackpowder firearms and archery equipment all the open days of the blackpowder firearms season through the second Saturday before Thanksgiving; and with all legal weapons from the second Monday before Thanksgiving through the Saturday following Thanksgiving;

(ii) dove may be taken all open days from the opening day of the dove season through the third Saturday thereafter;

(iii) squirrel (gray and fox) may be taken all the open days from second Monday before Thanksgiving, through the Saturday following Thanksgiving;

(iv) rabbit may be taken all open days from the second

(C) Saturday preceding Thanksgiving through the Saturday following Thanksgiving;

(v) waterfowl may be taken on open days during any waterfowl season;

(vi) wild animals and wild birds may be taken as part of a Disabled Sportsmen Program Permit Hunt; and

(vii) raccoon and opossum may be taken on open days from sunrise Monday on or nearest October 15 through the last day of February.

(C) The Deer With Visible Antlers season is the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving, except on the J. Robert Gordon Field Trial Grounds.

(D) The bow-and-arrow season is all open days from the Saturday on or nearest to Sept. 10 to the fourth Friday before Thanksgiving and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving through January 1. Deer may be taken with archery equipment on all open hunting days during the bow and arrow season, the Deer with Visible antlers season, and the blackpowder firearms season as stated in this Subparagraph.

(E) Blackpowder firearms season is all the open days from the fourth Saturday preceding Thanksgiving through the Wednesday of the second week thereafter and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving through January 1. Deer may be taken with blackpowder firearms on all open hunting days during the blackpowder firearms season and the Deer With Visible Antlers season.

(F) Either-sex deer hunting during the Deer With Visible Antlers Season is by permit only.

(G) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.

(H) Wild turkey hunting is by permit only.

(I) The following areas are permit-only for all quail and woodcock hunting, and dog training on birds:

(i) In Richmond County: that part east of US 1;
(ii) In Scotland County: that part west of SR 1328 and north of Gardner Farm Lane and that part east of SR 1328 and north of Scotland Lake Lane.

(J) Horseback riding on field trial grounds from October 22 through March 31 is prohibited unless riding in authorized field trials.

(K) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.

(L) Target shooting is prohibited, except at the John F. Lentz Hunter Education Complex.

(71) Sandy Creek Game Land in Nash and Franklin Counties

(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
(C) Horseback riding is prohibited.
(D) The use of dogs for hunting deer is prohibited.

(72) Sandy Mush Game Land in Buncombe and Madison counties.

(A) Three Days per Week Area
(B) Deer of either sex may be taken the last open day of the applicable Deer with Visible Antlers season.
(C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
(D) Dogs shall only be trained on Mondays, Wednesdays, and Saturdays and only as allowed in 15A NCAC 10D .0102(f).
(E) Dove hunting is by permit only from the opening day through the second Saturday of dove season.

(73) Second Creek Game Land in Rowan County- hunting is by permit only.

(74) Shocco Creek Game Land in Franklin, Halifax, Nash, and Warren counties

(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
(C) Horseback riding is prohibited.

(75) South Mountains Game Land in Burke, Cleveland, McDowell, and Rutherford counties

(A) Six Days per Week Area
(B) The Deer With Visible Antlers season consists of the open hunting days from the Monday before Thanksgiving through the third Saturday after Thanksgiving. Deer may be taken with bow and arrow on open days beginning the Saturday on or nearest September 10 to the third Saturday thereafter, and Monday on or nearest October 15 to the Saturday before Thanksgiving and during the Deer With Visible Antlers season. Deer may be taken with blackpowder firearms on open days beginning the Monday on or nearest October 1 through the Saturday of the second week thereafter, and during the Deer With Visible Antlers season.
(C) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
(D) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.
(E) That part of South Mountains Game Land in Cleveland, McDowell, and Rutherford counties is closed to all grouse hunting, quail hunting, woodcock hunting, and all bird dog training.

(76) Stones Creek Game Land in Onslow County

(A) Six-Day per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) The use of dogs for hunting deer is prohibited on Mondays, Wednesdays, and Fridays.
(D) Swimming in all lakes is prohibited.
(E) Waterfowl on posted waterfowl impoundments may be taken only on the following days:
(i) the opening and closing days of the applicable waterfowl seasons;
(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and
(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.
(F) Target shooting is prohibited.

(G) Geocaching is restricted to closed days for taking bear, deer, turkey, and waterfowl.

(77) Suggs Mill Pond Game Land in Bladen and Cumberland counties

(A) Hunting and trapping is by permit only.

(B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.

(C) Entry is prohibited on scheduled hunt or trapping days except for:

(i) hunters or trappers holding special hunt or trapping permits; and

(ii) persons using Campground Road to access Suggs Mill Pond Lake at the dam.

(D) During the period of November 1 through January 31, except on Sundays, the use of vessels on Suggs Mill Pond Lake and Little Singletary Lake is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).

(E) During the period of November 1 through March 15, the use of vessels on managed waterfowl impoundments is limited to waterfowl hunting only by waterfowl hunters possessing a valid and current Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d).

(78) Sutton Lake Game Land in New Hanover and Brunswick counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

(C) Target shooting is prohibited.

(79) Tar River Game Land in Edgecombe County – hunting is by permit only.

(80) Texas Plantation Game Land in Tyrrell County - hunting is by permit only.

(81) Three Top Mountain Game Land in Ashe County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited.

(82) Thurmond Chatham Game Land in Alleghany and Wilkes counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited except on designated trails May 16 through August 31, and all horseback riding is prohibited from September 1 through May 15. People age 16 or older horseback riding on this game land shall possess a Game Lands license.

(D) The maximum period of consecutive overnight camping at any designated campground is 14 days within any 30 day period from May 1 through August 31. After 14 consecutive days of camping all personal belongings must be removed from the game land.

(83) Tillery game Land in Halifax County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited.

(D) The use of dogs for hunting deer is prohibited.

(E) Wild turkey hunting is by permit only.

(84) Toxaway Game Land in Jackson and Transylvania counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15.

(85) Uwharrie Game Land in Davidson, Montgomery, and Randolph counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.

(C) On the posted waterfowl impoundment, waterfowl may be taken only on the following days:

(i) the opening and closing days of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

(iii) Mondays, Wednesdays and Saturdays of the applicable waterfowl seasons.

(D) Target shooting is prohibited, except at the Flintlock Valley Shooting Range.

(86) Vance Game Land in Vance County

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) The use of dogs, centerfire rifles, and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.

(87) Van Swamp Game Land in Beaufort and Washington counties

(A) Six Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Bear may only be taken the first three hunting days during the November Bear Season and the first three hunting days during the second week of the December Bear Season.

(88) Voice of America Game Land in Beaufort County- hunting and trapping is by permit only.

(89) White Oak River Game Land in Onslow County

(A) Three Days per Week Area

(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

(C) Except as provided in Part (D) of this Subparagraph, waterfowl in posted waterfowl impoundments shall be taken only on the following days:

(i) the opening and closing days of the applicable waterfowl seasons;

(ii) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

(iii) Tuesdays and Saturdays of the applicable waterfowl seasons.

(D) Beginning on the first open waterfowl season day in October and through the end of the waterfowl season, a permit is required for hunting posted waterfowl impoundments.

(E) The Huggins Tract and Morton Tracts have the following restrictions:

(i) access on Hargett Avenue and Sloan Farm Road requires a valid Hunting Opportunity Permit issued by the Wildlife Resources Commission pursuant to G.S. 113-264(d);

(ii) hunting is by permit only; and

(iii) the use of dogs for hunting deer is prohibited.

(90) Wild turkey hunting is by permit only. Whitehall Plantation Game Land in Bladen County

(A) Hunting and trapping is by permit only.

(B) Camping is restricted to September 1 through the last day of February and March 31 through May 14 in areas both designated and posted as camping areas.

(91) William H. Silver Game Land in Haywood County

(A) Six Days per Week Area

(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.

(i) On permitted type hunts, deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill shall validate the kill and report the kill to a wildlife cooperator agent or by phone.

(j) The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

(1) Bertie, Halifax and Martin counties—Roanoke River Wetlands;

(2) Bertie County—Roanoke River National Wildlife Refuge;

(3) Bladen County—Suggs Mill Pond Game Lands;

(4) Burke County—John's River Waterfowl Refuge;

(5) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting);

(6) Dare County—Roanoke Sound Marshes Game Lands; and

(7) Henderson and Transylvania counties—DuPont State Forest Game Lands.

(k) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission. Written permission may be granted only when entry onto the Waterfowl Refuge will not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

(l) Feral swine may be taken by licensed hunters during the open season for any game animal using any legal manner of take allowed during those seasons. Dogs may not be used to hunt feral

swine except on game lands that allow the use of dogs for hunting deer or bear, and during the applicable deer or bear season.

(m) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (h) of this Rule.

(n) Permit Hunt Opportunities for Disabled Sportsmen. The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on each permit. If the hunt has a limited weapon choice, the allowed weapons shall be stated on each permit.

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

(p) When waterfowl hunting is specifically permitted in this Rule on Christmas and New Years' Day and those days fall on Sundays, the open waterfowl hunting day shall be the following day.

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

Eff. February 1, 1976;

Temporary Amendment Eff. October 3, 1991;

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

September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994;

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

Amended Eff. July 1, 2000;

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

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

Temporary Amendment Eff. June 1, 2003;

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

Amended Eff. August 1, 2017; August 1, 2016; May 1, 2015;

August 1, 2014; January 1, 2013; August 1, 2012; August 1,

2011; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2007;

October 1, 2006; August 1, 2006; May 1, 2006; February 1, 2006; June 1, 2005; October 1, 2004.

15A NCAC 10D .0104 FISHING ON GAME LANDS

(a) Generally. Except as otherwise indicated herein, fishing on game lands that are open to fishing shall be in accordance with the North Carolina rules. All game lands are open to public fishing except restocked ponds when posted against fishing. Hunting Creek Swamp Waterfowl Refuge, Grogan Creek in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set-hook or any net, trap, gig, bow and arrow, or other special fishing device of a type mentioned in 15A NCAC 10C .0404(b),(c),(d), and (f) may be used in any impounded waters located entirely on game lands. Bow and arrow may be used to take nongame fishes in impounded waters located entirely on game lands with the exception of those waters mentioned in 15A NCAC 10C .0404(a). Blue crabs taken by hook and line (other than set-hooks) in designated waterfowl impoundments located on game lands shall have a minimum carapace width of five inches (point to point) and the daily possession limit is 50 per person and 100 per vessel.

(b) Designated Public Mountain Trout Waters

(1) **Fishing Hours.** It is unlawful to fish in designated public mountain trout waters on any game land and in all waters on the Dupont State Forest Game Land from one-half hour after sunset to one-half hour before sunrise, except in Hatchery Supported Trout waters as stated in 15A NCAC 10C .0305(a), Delayed Harvest waters as stated in 15A NCAC 10C .0205(a)(5), game lands sections of the Nantahala River located downstream from the Swain County line, and in the sections of Green River in Polk County located on Green River Game Lands from Cove Creek downstream to the natural gas pipeline crossing.

(2) **Location.** All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except Cherokee Lake, Grogan Creek, Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Pigeon River downstream of Waterville Reservoir to the Tennessee state line, Nolichucky River, Mill Ridge Pond, Cheoah River downstream of Santeetlah Reservoir, Little River from 100 yards downstream of Hooker Falls downstream to the Dupont State Forest boundary, Lake Imaging, Lake Dense, Lake Alfred, Lake Julia, Fawn Lake, North Fork Catawba River downstream of the mouth of Armstrong Creek, Green River downstream of the natural gas pipeline crossing, and Spring Creek below US Forest Service road 223.

Dupont State Forest Game Lands in Henderson and Transylvania counties.

Three Top Mountain Game Land in Ashe County.

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

Pisgah National Forest Game Lands in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, and Yancey counties.

Thurmond Chatham Game Land in Wilkes County.

Toxaway Game Land in Transylvania County. South Mountains Game Land in Cleveland and Rutherford counties.

Cold Mountain Game Land in Haywood County.

Green River Game Land in Henderson and Polk counties.

Pond Mountain Game Land in Ashe County. Rendezvous Mountain State Forest Game Land in Wilkes County.

(3) All designated public mountain trout waters located on the game lands listed in Subparagraph (b)(1) of this Rule are Wild Trout

Waters unless classified otherwise. [See 15A NCAC 10C .0205(d)]

(c) Ponds. In all game lands ponds, it is unlawful to take channel, white, or blue catfish (forked tail catfish) by means other than hook and line and the daily creel limit for forked tail catfish is six fish in aggregate.

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

Eff. February 1, 1976;

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

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

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

Temporary Amendment Eff. June 1, 2003;

Amended Eff. August 1, 2017; August 1, 2015; August 1, 2014; August 1, 2010; May 1, 2009; August 1, 2004.

15A NCAC 10F .0314 NEW HANOVER COUNTY

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

- (1) that area bounded on the north by the US 74-76 Bridge crossing the Intracoastal Waterway, on the south by a line shore to shore intersecting Intracoastal Waterway marker number 127, on the west by the shore of Wrightsville Sound, and on the east by a line perpendicular to US Highway 74-76 and intersecting marker number 25 in Motts Channel;
- (2) that area of Motts Channel between marker number 25 at the Intracoastal Waterway on the west and marker number 16 at the entrance from Banks Channel on the east;
- (3) that area bounded on the west by the US 76 Bridge crossing Bradley Creek, on the north and south by the banks of Bradley Creek, on the east by a line from a point on the southwest shore at 34.21293 N, 77.83171 W, to a point on the northeast shore at 34.21437 N, 77.83061 W;
- (4) Lee's Cut from its western intersection with the Intracoastal Waterway at 34.21979 N, 77.80965 W, to its eastern intersection with Banks Channel at 34.21906 N, 77.79645 W;
- (5) the unnamed channel lying between the shore west of Bahama Drive in the Town of Wrightsville Beach and an unnamed island located approximately 500 feet northeast of the US 74 bridge over Banks Channel; and
- (6) those waters of the Northeast Cape Fear River between the US Hwy. 117 bridge and the railroad trestle 60 yards east of the Castle Hayne Boating Access Area.

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

(c) Placement of Markers. The Board of Commissioners of New Hanover County is designated a suitable agency for placement of the markers implementing this Rule, subject to the approval of the

United States Coast Guard and the United States Army Corps of Engineers.

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

Eff. February 1, 1976;

Amended Eff. July 1, 1993; May 1, 1989; June 1, 1987; May 1, 1987;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;

Amended Eff. April 1, 2017.

15A NCAC 10F .0327 MONTGOMERY COUNTY

(a) Regulated Areas. This Rule applies to the waters and portions of waters described as follows:

- (1) Badin Lake:
 - (A) Lakeshore Drive Cove as delineated by appropriate markers;
 - (B) Entrance to fueling site and marina west of the main channel of Lake Forest Drive Cove;
 - (C) Gar Creek; and
 - (D) Beyer's Island waterfront channel facing the mainland.
- (2) Lake Tillery:
 - (A) Woodrun Cove as delineated by appropriate markers;
 - (B) Carolina Forest Cove as delineated by appropriate markers; and
 - (C) The waters in the vicinity of the Lilly's Bridge Boating Access Area shore to shore, from a line north of the Route 1110 bridge at a point on the eastern shore at 35.23223 N, 80.06166 W, to a point on the western shore at 35.23289 N, 80.06318 W, to a line southwest of the Lilly's Bridge Boating Access Area, from a point on the eastern shore at 35.23067 N; 80.06262 W, to a point on the western shore at 35.23156 N; 80.06437 W.

(3) Tuckertown Reservoir.

(b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.

(c) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any regulated area described in Paragraph (a) of this Rule.

(d) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area established with the approval of the Wildlife Resources Commission on the waters of the regulated areas described in Paragraph (a) of this Rule.

(e) Placement of Markers. The Board of Commissioners of Montgomery County is designated a suitable agency for placement of the markers implementing Parts (a)(1)(A), (B), (C), (D), (2)(A) and (B), and Subparagraph (a)(3) of this Rule in accordance with the Uniform System. The North Carolina

Wildlife Resources Commission is designated a suitable agency for placement and maintenance of the markers implementing Part (a)(2)(C) of this Rule.

History Note: Authority G.S. 75A-3; 75A-15; Eff. November 1, 1977; Amended Eff. December 1, 1990; May 1, 1989; March 25, 1978; Temporary Amendment Eff. June 1, 1998; Amended Eff. April 1, 1999; July 1, 1998; Temporary Amendment Eff. July 1, 2002; Amended Eff. August 1, 2006; June 1, 2005; April 1, 2003; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016; Amended Eff. April 1, 2017.

15A NCAC 10F .0330 CARTERET COUNTY

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

- (1) the waters of Money Island Slough, beginning at the east end of Money Island near the Anchorage Marina Basin and ending at the west end of Money Island where Brooks Avenue dead ends at the slough;
- (2) the waters of Taylor's Creek in Beaufort, shore to shore from where Taylor's Creek meets the Newport River at the western end, to a line at the eastern end between a point on the north shore at 34.70762 N, 76.61784 W, south-southwest to the eastern tip of Carrot Island;
- (3) the waters of Pelletier Creek, beginning at the entrance to Pelletier Creek at the Intracoastal Waterway and ending at U.S. Highway 70;
- (4) the waters of Bogue Sound Harbor Channel in Morehead City, between Sugar Loaf Island and the seawall on the south side of Evans, Shepard, and Shackleford Streets, and bounded on the east by the State Ports Authority, and on the west by the eastern right-of-way margin of South 13th Street extended;
- (5) the waters of Gallant's Channel, from the US 70 crossing over the Grayden Paul bridge to Taylor's Creek;
- (6) the waters of Cedar Island Bay and Harbor, from N.C. Highway 12 to Cedar Island Bay Channel Light 8;
- (7) the waters of the small cove on the west side of Radio Island south of Old Causeway Road;
- (8) the waters of the Newport River, beginning at the north side of the Beaufort Drawbridge and ending at marker #6;
- (9) the waters of Spooners Creek within the territorial limits of the Town of Morehead City as delineated by appropriate markers;
- (10) the waters of the Newport River at Bogue Sound, including all waters surrounding the Port of Morehead City to Brandt Island as delineated by appropriate markers;
- (11) the waters of Morgans Creek as delineated by appropriate markers;

(12) the waters of Cannonsgate Marina and the Cannonsgate Marina Channel, beginning at its intersection with Bogue Sound at 34.70163 N, 76.98157 W, as delineated by appropriate markers;

(13) the waters of the Newport River within 200 yards of the Newport River Beach Access Boat Ramp, beginning at the shore north of the U.S. 70 bridge at a point at 34.72141 N, 76.68707 W, west to a point at 34.72128 N, 76.68893 W, north to a point at 34.72376 N, 76.68911 N, then east to the shore at 34.72371 N, 76.68631 W;

(14) the waters of Palmetto Drive canal, a tributary to the White Oak River, beginning at a point on the western shore at 34.67903N, 77.10142W to a point on the eastern shore at 34.67899 N, 77.10098 W and extending the entire length of the canal; and

(15) that portion of the canal at Dolphin Bay Estates, a tributary to the White Oak River, beginning 30 yards inside the entrance to the canal and extending the entire length of the canal.

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

(c) Placement of Markers. The following agencies shall be designated as suitable agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and the United States Army Corps of Engineers:

- (1) the Board of Commissioners of Carteret County, with respect to the regulated areas designated in Subparagraphs (a)(1), (3), (5), (6), (7), (8), (11), and (12) of this Rule;
- (2) the Board of Commissioners of the Town of Beaufort, with respect to the regulated area designated in Subparagraph (a)(2) of this Rule;
- (3) the Board of Commissioners of Morehead City, with respect to Subparagraph (a)(4), (9), and (13) of this Rule;
- (4) the North Carolina State Ports Authority, with respect to the regulated area designated in Subparagraph (a)(10) of this Rule; and
- (5) the Board of Commissioners of the Town of Cedar Point with respect to the regulated areas designated in Subparagraphs (a)(14) and (15) of this Rule.

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

Eff. March 4, 1979;

Amended Eff. October 1, 1997; May 1, 1995; June 1, 1994; February 1, 1994; July 1, 1993;

Temporary Amendment Eff. February 1, 1998;

Amended Eff. July 1, 1998;

Temporary Amendment Eff. March 1, 1999; November 1, 1998;

Amended Eff. May 1, 2016; July 1, 2012; September 1, 2010;

July 1, 2000;

Temporary Amendment Eff. September 1, 2016;

Amended Eff. April 1, 2017.

15A NCAC 10H .1302 POSSESSION OF REPTILES AND AMPHIBIANS

(a) Permits required. Possession permits are required for the possession, importation, transportation, purchase, and sale of:

- (1) 25 or more individuals of any combination of native amphibian species; or
- (2) five or more individuals of native reptile species.

(b) Permits not required. Possession permits are not required for the possession, importation, transportation, purchase, and sale of:

- (1) 24 or fewer individuals of any combination of native amphibian species; or
- (2) four or fewer individuals of native reptile species, except snapping turtles (*Chelydra serpentina*) less than 11 inches (curved carapace length) shall not be possessed. Individuals in possession of snapping turtles (*Chelydra serpentina*) less than 11 inches (curved carapace length) prior to May 1, 2017 are exempt from this restriction.

(c) Unauthorized activities. Nothing in this Rule shall be construed to authorize the collection of any wildlife resources from the wild or the taking, possession, transportation, sale, purchase, or release to the wild of any wildlife resources or their parts in violation of State or federal laws or regulations. At no time shall permitted animals be released to the wild, except under situations of research or rehabilitation with written permission from the Wildlife Resources Commission.

(d) Denial of possession permits. Circumstances for which, and persons to whom a possession permit shall not be issued include:

- (1) for the purpose of holding reptiles and amphibians that were acquired unlawfully;
- (2) for the purpose of holding reptiles and amphibians for unlawful sale or trade;
- (3) for the purpose of possessing or selling snapping turtles (*Chelydra serpentina*) less than 11 inches (curved carapace length) however, individuals in possession of snapping turtles (*Chelydra serpentina*) less than 11 inches (curved carapace length) prior to May 1, 2017 are exempt from this restriction;
- (4) to persons who collect five or more individual native turtles or terrapins from the families Emydidae or Trionychidae from the wild in a given year, except those entities exempted from collection in Paragraph (c) of Rule .1301 of this Section;
- (5) to persons who collect five or more individuals in aggregate from other native reptile families or 25 or more individual amphibians from the wild in a given year without first having secured a valid Collection License;
- (6) to persons found to be in violation of Collection License, Endangered Species Permit, or Possession Permit requirements as provided in 15A NCAC 10B .0119, 10I .0100, and 10H .1300.

(7) to persons who do not first obtain possession permits prior to acquiring the following wildlife resources unless the acquisition of these animals was made prior to May 1, 2007 and a permit was acquired within 12 months of that date:

- (A) 25 or more individuals of any combination of native amphibian species; or
- (B) five or more individuals of native reptile species.

(e) Term of Permit. The permit shall be valid from January 1 through December 31 of the applicable year.

(f) Reports on Permitted Animals. Each individual permitted under this Rule shall submit a report to the Wildlife Resources Commission within 15 days following the date of expiration of the permit. The report shall show the numbers of each species held under the permit and the use or disposition thereof. The Executive Director may require additional information for statistical purposes such as the source and date of acquisition of additional animals and the sex, size, weight, condition, reproductive success and approximate age of each animal in possession.

(g) Other Requirements and Restrictions. The Executive Director may, pursuant to G.S. 113-274(c), impose such other requirements and restrictions on persons permitted under this Rule as he may deem to be necessary to the efficient administration of the wildlife conservation statutes and rules.

History Note: Authority G.S. 113-274(c)(1c);

Eff. May 1, 2007;

Amended Eff. August 1, 2017; May 1, 2009.

* * * * *

15A NCAC 18A .1971 ENGINEERED OPTION PERMIT

(a) An owner choosing to use an Engineered Option Permit (EOP) for on-site wastewater systems pursuant to G.S. 130A-336.1 shall employ the services of a professional engineer licensed pursuant to G.S. 89C to prepare signed and sealed drawings, specifications, plans, and reports for the design, construction, operation, and maintenance of the wastewater system.

(b) SITE EVALUATION: Prior to the submittal of a Notice of Intent to Construct (NOI) for an EOP system, a soil scientist licensed pursuant to G.S. 89F or a geologist licensed pursuant to G.S. 89E shall conduct an evaluation of soil conditions and site features of the proposed site. This evaluation shall be in accordance with the rules of this Section.

(c) NOTICE OF INTENT TO CONSTRUCT: The NOI for an EOP System shall be submitted by the owner or a professional engineer authorized as the legal representative of the owner to the local health department in the county where the design unit is located. The NOI shall be submitted on the common form provided by the Department. The common form is available by accessing the Department's website at <http://ehs.ncpublichealth.com/oswp/docs/rules/EOPCommonFormNovember-1-2016.pdf>. It shall include all of the information specified in G.S. 130A-336.1(b) and the following:

(1) The soil scientist's, geologist's, and on-site wastewater system contractor's name, license number, address, e-mail address, and telephone number;

(2) Information required in Rules .1937(d) and .1937(e) of this Section for Improvement Permit and Construction Authorization applications;

(3) Identification and location on the site plan of existing or proposed potable water supplies, geothermal heating and cooling wells, and groundwater monitoring wells for the proposed site. The professional engineer shall reference any existing permit issued for a private drinking water supply, public water supply, or a wastewater system on both the subject and adjoining properties to provide documentation of compliance with setback requirements in Rule.1950 of this Section; and

(4) Proof of insurance for the professional engineer, soil scientist, geologist, and on-site wastewater system contractor.

(d) DESIGN PLANS AND SPECIFICATIONS: The professional engineer design shall incorporate findings and recommendations on soil and site conditions, limitations, and any site modifications specified by the soil scientist or geologist, as applicable, and in accordance with G.S. 130A-336.1(k)(1). When the professional engineer chooses to employ pretreatment technologies not yet approved in this State, the engineering report shall specify the proposed technology, and the associated siting, installation, operation, maintenance, and monitoring requirements, including manufacturers endorsements associated with its proposed use.

(e) CONSTRUCTION OF WASTEWATER SYSTEM: No building permit for construction, location, or relocation shall be issued until after a decision of completeness of the NOI is made by the local health department, or the local health department fails to act within 15 business days. Construction of the wastewater system shall not commence until the system design plans and specifications have been provided to the on-site wastewater system contractor and the signed and dated statement by the contractor is provided to the owner. The owner shall be responsible for assuring no modifications or alterations to the site for the wastewater system or the system repair area are made as a result of any construction activities for the design unit before or after construction of the wastewater system, unless approved by the professional engineer, soil scientist, or geologist, as applicable.

(f) AUTHORIZATION TO OPERATE: Prior to providing written confirmation for Authorization to Operate, the local health department shall receive the following:

(1) Documentation that all reporting requirements identified in G.S. 130A-336.1(l) have been met;

(2) Information set forth in Rule .1938(h) of this Section;

(3) System start-up documentation, including applicable baseline operating parameters for all components;

(4) Documentation by the owner or their legal representative that all necessary legal agreements, including easements, encroachments, multi-party agreements, and other documents have been properly prepared, executed and recorded in accordance with Rules .1937(h) and .1938(j) of this Section; and

(5) Record drawings.

The local health department shall use the common form for written confirmation.

(g) OPERATION: The owner of the wastewater system approved pursuant to the EOP shall be responsible for maintaining the wastewater system in accordance with the written operation and management program required in G.S. 130A-336.1(i)(1) and Rule .1961 of this Section.

(h) SYSTEM MALFUNCTION: For repair of a malfunctioning EOP system, this Rule shall be followed in conjunction with Rule .1961 of this Section. The operator shall notify the local health department within 48 hours of the system malfunction.

(i) DESIGN UNIT CHANGE OF USE: The owner of an EOP system who wishes to change the use of the design unit shall contact the professional engineer, soil scientist, geologist, and on-site wastewater system contractor, to determine whether the current system would continue to meet the requirements of the rules of this Section for the proposed change of use. The professional engineer, soil scientist, geologist, or on-site wastewater system contractor shall determine what, if any, modifications shall be necessary for the wastewater system to continue to meet the requirements of the Rules of this Section following the proposed change of use. A NOI reflecting the change of use and any required modifications to the system shall be submitted to the local health department and follow the EOP permitting process.

(j) LOCAL HEALTH DEPARTMENT RESPONSIBILITIES: The local health department is responsible for the following activities related to the EOP system:

(1) File all EOP documentation consistent with current permit filing procedures at the local health department;

(2) Submit a copy to the Department of the NOI common form and written confirmation of Authorization to Operate;

(3) Review the performance and operation reports submitted in accordance with Table V(b) of Rule .1961 of this Section;

(4) Perform on-site compliance inspections of the wastewater system in accordance with Table V(a) of Rule .1961 of this Section;

(5) Investigate complaints regarding EOP systems;

(6) Issue a notice of violation for systems determined to be malfunctioning in accordance with Rule .1961(a) of this Section. The local health department shall direct the owner to contact the professional engineer, soil scientist, geologist, and on-site wastewater system contractor, as appropriate, for determination of the reason of the malfunction and development of a NOI for repairs; and

(7) Require an owner receiving a notice of violation to pump and haul sewage in accordance with Rule .1961(m) of this Section.

(k) CHANGE IN LICENSED PROFESSIONALS: The Owner may contract with another licensed professional to complete an EOP project. An updated NOI shall be submitted to the local health department.

(l) Nothing in this Rule shall be construed as allowing any licensed professional to provide services for which he or she has neither the educational background, expertise, or license to perform, or is beyond his or her scope of work as provided for pursuant to G.S. 130A-336.1 and the applicable statutes for their respective professions.

History Note: Authority G.S. 130A-335; 130A-336.1; Temporary Adoption Eff July 1, 2016; Eff. April 1, 2017.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 06 – BOARD OF BARBER EXAMINERS

21 NCAC 06C .0912 COMPLAINTS

(a) An individual who wishes to make a complaint alleging a violation of G.S. 86A or the Board's rules shall submit the complaint in writing to the address or through the website set forth in 21 NCAC 06A .0102.

(b) Upon receipt of a complaint, the Board's Executive Director shall review the complaint. The Executive Director shall assign a staff member to investigate the complaint, except for complaints that are dismissed as set forth in Paragraph (c) of this Rule.

(c) The Executive Director shall dismiss the complaint and notify the complainant if the complaint:

(1) lacks information, such as barbershop location or a description of the alleged conduct, necessary to investigate the complaint. Before dismissal, the Executive Director shall attempt to collect additional information from the complainant; or

(2) alleges conduct that is not prohibited by G.S. 86A or the Board's rules or is not within the Board's jurisdiction. The Executive Director shall refer the complaint to any other agency that may have jurisdiction.

(d) After conducting an investigation, the assigned staff member shall:

(1) recommend to the Executive Director that the Board counsel issue a probable cause letter for violations of G.S. 86A or the Board's rules; or

(2) recommend that the Executive Director dismiss the complaint because there is insufficient evidence of a violation of G.S. 86A or the Board's rules or the alleged conduct is not within the Board's jurisdiction.

(e) After receiving a recommendation required by Paragraph (d) of this Rule, the Executive Director shall:

(1) request additional investigation by the assigned staff member on a case-by-case basis when the recommendation does not contain facts to support the actions set forth in Subparagraphs (2) or (3) of this Paragraph;

(2) recommend that the Board counsel issue a probable cause letter for violations of G.S. 86A or the Board's rules; or

(3) dismiss the complaint and notify the complainant, except that the Executive Director shall refer the complaint to any other agency that may have jurisdiction.

(f) At each regularly scheduled Board meeting, the Executive Director shall submit to the Board a report of dismissed complaints that he or she has not previously reported, with a summary of the allegations and a justification for the dismissal. If the complaint was dismissed within 30 days of the Board meeting, the Executive Director may instead include the dismissal in the report for the Board meeting following the next regularly scheduled meeting.

(g) By a majority vote, the Board may reopen any complaint that the Executive Director has dismissed, in which case the complaint shall be handled as if the Executive Director had not dismissed the complaint.

History Note: Authority G.S. 86A-5; Eff. April 1, 2017.

21 NCAC 06I .0105 APPRENTICE BARBER

A student who has trained in another state may take the examination to become a registered apprentice barber provided:

(1) his or her hours of training in the out-of-state barber school have been credited under 21 NCAC 06I .0101;

(2) he or she completes and furnishes to the Board the Form BAR-4 that meets the requirements of 21 NCAC 06N .0105; and

(3) he or she pays the required fee in 21 NCAC 06N .0101(a)(5).

History Note: Authority G.S. 86A-5; 86A-18; 86A-24; 86A-25;

Eff. February 1, 1976;

Readopted Eff. February 8, 1978;

Amended Eff. March 1, 1983;

Legislative Objection Lodged Eff. March 7, 1983;

Amended Eff. September 1, 2013; June 1, 2008; May 1, 1989;

Readopted Eff. October 1, 2016;

Amended Eff. April 1, 2017.

21 NCAC 06K .0112 APPLICANTS WITH MILITARY TRAINING AND EXPERTISE

(a) Except for individuals who want to apply under G.S. 86A-12 for licensure as a registered barber, an individual who has military training and expertise and wants to apply to become a registered barber in this State shall:

(1) meet the requirements of G.S. 93B-15.1(a) or (a2); and

(2) submit the Form BAR-11 as set forth in 21 NCAC 06N .0112.

(b) The applicant shall submit with the Form BAR-11 a certification letter from the applicant's out-of-state agency of the applicant's licensure in that state if the following apply:

- (1) the applicant has been licensed in another state;
- (2) the applicant wants to be licensed without examination;
- (3) the military service records do not show that the applicant received at least 1,500 hours of military training and that the applicant practiced at least two of the five years preceding the date of application; and
- (4) the combination of the certification letter and the military service records show that the applicant received at least 1,500 hours of training and practiced at least two of the five years preceding the date of application.

(c) If the applicant meets the requirements in Paragraph (a) of this Rule and G.S. 93B-15.1(a2), the applicant shall:

- (1) submit the fee as set forth in 21 NCAC 06N .0101(a)(4); and
- (2) make a score of at least 70 percent on the clinical examination.

(d) After being approved under this Rule, the applicant shall submit the following fee:

- (1) if the applicant meets the requirements of this Rule for licensure without examination, the fee as set forth in 21 NCAC 06N .0101(a)(21); or
- (2) if the applicant meets the requirements of Paragraph (c) of this Rule, the fee as set forth in 21 NCAC 06N .0101(a)(1).

(e) The Board shall issue a temporary permit for the applicant to work as a registered barber while he or she complies with the requirements of this Rule under the following circumstances:

- (1) if the applicant has submitted the Form BAR-11 and part of the documentation required by 21 NCAC 06N .0112(a)(2), and this partial documentation establishes that he or she served in the military and has certification or experience in barbering, the Board shall issue a temporary permit that lasts 90 days or until the Board denies the application, whichever is earlier; or
- (2) if the applicant is required to take the practical examination and has met the requirements in Paragraph (a) and Subparagraph (c)(1) of this Rule, the Board shall issue a temporary permit that last 90 days or until the Board denies the application, whichever is earlier. Upon written request by the applicant, this temporary permit shall be extended for 90 days no more than twice, unless the Board denies the application.

History Note: Authority G.S. 86A-1; 86A-11; 86A-12; 86A-25; 93B-15.1;
Eff. April 1, 2017.

21 NCAC 06K .0113 MILITARY SPOUSES

(a) An individual who is currently licensed as a barber in another state, is the spouse of a person serving in the military, and wants to apply to become a registered barber in this State shall provide the following, unless he or she wants to apply under another provision in G.S. 86A for licensure as a registered barber:

- (1) the Form BAR-12 as set forth in 21 NCAC 06N .0113; and
- (2) a certification letter from the applicant's out-of-state agency of the applicant's licensure in that state.

(b) The applicant shall instead apply for out-of-state licensure under G.S. 86A-12 and Rule .0104 of this Section if the certification letter required by Subparagraph (a)(2) of this Rule does not show that the applicant:

- (1) completed at least 1,500 hours of barber school training; and
- (2) has been licensed as a barber for at least one of the five years preceding the date of application.

(c) After being approved under this Rule, the applicant shall submit the fee set forth in 21 NCAC 06N .0101(a)(21).

(d) Upon request by the applicant, the Board shall issue one temporary permit for the applicant to work as a registered barber for 90 days while the applicant gathers the documents required by this Rule.

History Note: Authority G.S. 86A-1; 86A-3; 86A-11; 86A-12; 86A-25; 93B-15.1;

Eff. April 1, 2017.

21 NCAC 06L .0102 MEASUREMENTS OF BARBER SHOP

(a) Each barber shop shall be a minimum of 196 square feet measured from the inside walls of the shop, not including common areas shared with other businesses or residents.

(b) Each chair shall be located in an area where there is no less than eight linear feet from front wall to back wall, measured through the center of the chair, with the back wall being the wall or plane to which the backstand is affixed. There shall be a minimum of five linear feet of space between each barber chair, from center to center of each chair and there shall be no less than three linear feet from the center of any chair to any side wall. There shall be an unobstructed aisle in front of each chair of no less than four feet.

(c) Paragraphs (a) and (b) apply to barber shops permitted on or after December 1, 1994 or that undergo modification or structural renovations on or after that date.

(d) Barber shops permitted prior to February 1, 1976, shall be a minimum of 12 feet in width and 14 feet in length.

(e) Barber shops permitted between February 1, 1976 and November 30, 1994 shall be a minimum of 14 feet in width and 14 feet in length.

(f) Barber shops permitted within the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice prior to July 1, 2010 are exempt from the requirements of this Rule.

History Note: Authority G.S. 86A-15;
Eff. February 1, 1976;

Readopted Eff. February 8, 1978;

Amended Eff. September 1, 2009; June 1, 2008; December 1, 1994; May 1, 1989;

Readopted Eff. July 1, 2016;

Amended Eff. April 1, 2017.

21 NCAC 06N .0101 FEES AND ACCESS TO FORMS

(a) The Board charges the following amounts for the fees authorized by G.S. 86A-25:

(1)	Certificate of registration or renewal as a barber	\$50.00
(2)	Certificate of registration or renewal as an apprentice barber	\$50.00
(3)	Barbershop permit or renewal	\$50.00
(4)	Examination to become a registered barber	\$85.00
(5)	Examination to become a registered apprentice barber	\$85.00
(6)	Late fee for restoration of an expired barber certificate within first year after expiration	\$35.00
(7)	Late fee for restoration of an expired barber certificate after first year after expiration but within five years after expiration	\$70.00
(8)	Late fee for restoration of an expired apprentice certificate within the first year after expiration	\$35.00
(9)	Late fee for restoration of an expired apprentice certificate after first year after expiration but within three years of first issuance of the certificate	\$45.00
(10)	Late fee for restoration of an expired barber shop certificate	\$45.00
(11)	Examination to become a barber school instructor	\$165.00
(12)	Student permit	\$25.00
(13)	Issuance of any duplicate copy of a license, certificate, or permit	\$10.00
(14)	Barber school permit or renewal	\$130.00
(15)	Late fee for restoration of an expired barber school certificate	\$85.00
(16)	Barber school instructor certificate or renewal	\$85.00
(17)	Late fee for restoration of an expired barber school instructor certificate within first year after expiration	\$45.00
(18)	Late fee for restoration of an expired barber school instructor certificate after first year after expiration but within three years after expiration	\$85.00
(19)	Inspection of newly established barbershop	\$120.00
(20)	Inspection of newly established barber school	\$220.00
(21)	Issuance of a registered barber or apprentice certificate by certification	\$120.00
(22)	Charge for certified copies of public documents	\$10.00 for first page, \$0.25 per page thereafter

(23) Charge for duplication services and material shall be as set forth in 26 NCAC 01 .0103(a), including any subsequent amendments and editions of the Rule

(24) Certificate of registration or renewal as a barber for barbers over 70 years of age \$0.00

(25) Administrative fee under G.S. 86A-27(d) for paying any required fee for renewal or restoration, or a civil penalty and attorney fee, where the apprentice barber or registered barber is subject to a pick-up order issued to an inspector. \$70.00

(b) In the event the Board's authority to expend funds is suspended pursuant to G.S. 93B-2, the Board shall continue to issue and renew licenses and all fees tendered shall be placed in the escrow account maintained by the Board for this purpose.

(c) The forms set forth in this Subchapter may be obtained on the website or at the address listed in 21 NCAC 06A .0102.

History Note: Authority G.S. 86A-5; 86A-25; 86A-27(d); 93B-2;

Eff. February 1, 1976;

Readopted Eff. February 8, 1978;

Amended Eff. April 1, 2010; September 1, 2009; June 1, 2008;

April 1, 2005; May 1, 1989; March 1, 1983;

Readopted Eff. July 1, 2016;

Amended Eff. April 1, 2017.

21 NCAC 06N .0112 FORM BAR-11

(a) The Form BAR-11 shall be filed by an individual who has military training and expertise and who wants to apply to become a registered barber pursuant to 21 NCAC 06K .0112. It requires the following:

- (1) the name, address, social security number, and birthdate of the applicant; and
- (2) copies of the military service records showing the applicant's military certification and experience in barbering.

(b) The applicant shall submit with the Form BAR-11 a certification letter from the applicant's out-of-state agency of the applicant's licensure if the conditions set forth in 21 NCAC 06K .0112(b) apply.

(c) The Form BAR-11 shall be notarized.

History Note: Authority G.S. 86A-1; 86A-12; 93B-14; 93B-15.1;

Eff. May 1, 1989;

Amended Eff. September 1, 2013;

Readopted Eff. July 1, 2016;

Amended Eff. April 1, 2017.

21 NCAC 06N .0113 FORM BAR-12

(a) The Form BAR-12 shall be filed by an individual who has practiced as a barber pursuant to Rule 21 NCAC 06K .0113. It requires the following:

- (1) the name, address, social security number, and birthdate of the applicant; and
- (2) copies of the military service records showing that the applicant's spouse is serving in the

military, along with evidence of the marriage, such as a copy of the marriage license.

(b) The applicant shall submit with the Form BAR-12 a certification letter from the applicant's out-of-state agency of the applicant's licensure.

(c) The Form BAR-12 shall be notarized.

History Note: Authority G.S. 86A-1; 86A-25; 93B-14; 93B-15.1;
Eff. April 1, 2017.

21 NCAC 06N .0114 EXTENSIONS FOR MEMBERS OF THE ARMED FORCES

(a) If an individual is licensed or owns a business licensed under G.S. 86A, is serving in the Armed Forces of the United States, and has received an extension of time to file a tax return under G.S. 105-249.2, the Board shall waive the following fees for the same period that would apply if the license fee were a tax:

- (1) the late fee for restoration of an expired barber certificate within the first year after expiration as set forth in 21 NCAC 06N .0101(a)(6);
- (2) the late fee for restoration of an expired barber certificate after the first year after expiration but within five years after expiration as set forth in 21 NCAC 06N .0101(a)(7);
- (3) the late fee for restoration of an expired apprentice certificate within the first year after expiration as set forth in 21 NCAC 06N .0101(a)(8);
- (4) the late fee for restoration of an expired apprentice certificate after the first year after expiration but within three years of first issuance of the certificate as set forth in 21 NCAC 06N .0101(a)(9);
- (5) if the individual serving in the Armed Forces is the barbershop manager or owner, the late fee for restoration of an expired barbershop certificate as set forth in 21 NCAC 06N .0101(a)(10);
- (6) if the individual serving in the Armed Forces is the barber school manager or owner, the late fee for restoration of an expired barber school certificate as set forth in 21 NCAC 06N .0101(a)(15);
- (7) the late fee for restoration of an expired barber school instructor certificate within the first year after expiration as set forth in 21 NCAC 06N .0101(a)(17); and
- (8) the late fee for restoration of an expired barber school instructor certificate after the first year after expiration but within three years after expiration as set forth in 21 NCAC 06N .0101(a)(18).

(b) To receive any extension as set forth in Paragraph (a) of this Rule, the individual shall submit the following to the Board at the address in 21 NCAC 06A .0102:

- (1) a written request that states what extension he or she is seeking; and

- (2) a copy of the documentation from the North Carolina Department of Revenue granting the extension under G.S. 105-249.2.

History Note: Authority G.S. 93B-15(a);
Eff. April 1, 2017.

21 NCAC 06P .0103 GENERAL DEFINITIONS

For purposes of the rules in this Chapter, the following definitions shall apply:

- (1) "Barber" means any person who engages in or attempts to engage in the practice of barbering or provide barbering services.
- (2) "Barber instructor" means any person who engages in or attempts to engage in the teaching of the practice of barbering.
- (3) "Barber pole" means an actual or representation of a cylinder or pole with alternating stripes of any combination including red and white, and red, white, and blue that run diagonally along the length of the cylinder or pole.
- (4) "Barber school" means any establishment that engages in or attempts to engage in the teaching of the practice of barbering.
- (5) "Barber student" means any person who is enrolled in barber school, including those taking classes beyond the 1528 required hours.
- (6) "Board" means the State Board of Barber Examiners.
- (7) "License" or "permit" or "certificate of registration" means the actual license or permit issued by the Board and current government issued photo identification depicting the licensee's or permittee's photograph and legal name.
- (8) "Military service record" means veteran service records, such as the U.S. Department of Defense Form 214 (DD-214), or other military service records from the military or National Archives.
- (9) "Pick-up order" means an order issued by the Board and signed by the Executive Director authorizing an inspector to physically retrieve a permit or license.
- (10) "Practice of barbering" and "barber services" means all activities set forth in G.S. 86A-2, and the sanitary requirements of Chapter 86A and the sanitary rules adopted by the Board.
- (11) "Sanitary" means free of infectious agents, diseases, or infestation by insects or vermin and free of soil, dust, or dirt.

History Note: Authority G.S. 86A-2; 86A-5; 86A-13; 86A-15; 86A-22; 86A-23; 93B-15.1;
Eff. June 1, 2008;
Readopted Eff. July 1, 2016;
Amended Eff. April 1, 2017.

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

21 NCAC 10 .0305 PREPAID TREATMENT PLANS

(a) Prepaid Treatment Plan Defined. A "prepaid treatment plan" is a contract between a patient and a physician under which the patient, instead of paying for services as they are delivered, agrees in advance to pay a pre-determined total amount to the physician for a series of specified treatments and services to be performed by the physician or the physician's staff in the future and that are not covered by insurance. The patient's financial obligation may be payable in a lump sum or in periodic installments.

(b) Non-Conforming Plans Unlawful. A physician who offers to a patient a prepaid treatment plan that does not conform to this Rule shall be subject to disciplinary action pursuant to G.S. 90-154(b)(9), committing or attempting to commit fraud, deception or misrepresentation.

(c) Required Contractual Provisions. A prepaid treatment plan shall be in writing and signed by the patient. The physician shall provide an accurate and complete copy of the plan document to the patient. In addition to any permissive provisions not in conflict with this Rule, the plan document shall contain the following mandatory provisions:

- (1) The duration of the plan, measured either by number of office visits or calendar days;
- (2) The therapeutic objectives of the plan, based on a physical examination and assessment of the patient performed by the physician prior to the plan's start date;
- (3) The patient's cost to purchase the plan;
- (4) A description of the services and products that are included within the plan and for which there will be no additional charges;
- (5) A disclaimer, in bold-faced type, that the patient could incur additional charges if services and products not included within the plan are delivered to the patient during the course of treatment;
- (6) A description of the physician's office policy regarding charges for cancelled office visits and office visits not kept; and
- (7) A declaration of the patient's right to terminate the plan early and receive a refund in conformity with Paragraphs (d) and (e) of this Rule.

(d) Refund Calculation. The patient shall have the right to terminate a prepaid treatment plan at any point prior to the stated expiration without incurring any financial penalty. The physician may charge the patient the full amount for dispensed products that cannot be re-stocked, including opened nutritional supplements and used cervical pillows, orthotic and neurological appliances, and similar durable medical equipment. In all other respects, the amount of the refund payable to the patient shall be calculated strictly pro-rata, based on the measure of duration recited in the plan document (office visits or calendar days). No other method of refund calculation shall be permitted, and any provision in the plan that specifies another method of calculation shall be void.

- (e) Notice of Plan Termination; Prompt Refund. The physician may require that a patient give notice of plan termination by delivery of a paper writing dated and signed by the patient or a person authorized to sign in the patient's behalf. The physician shall not impose any other procedural impediments to obtaining a refund. The physician shall issue the appropriate pro-rata refund within ten business days after receiving notice of plan termination.
- (f) Administrative Fees. The physician shall not collect from a patient any fees for administering a plan other than pass-through fees for which the physician is liable, such as credit card processing fees.

*History Note: Authority G.S. 90-142; 90-154.
Eff. April 1, 2017.*

CHAPTER 11 – BOARD OF EMPLOYEE ASSISTANCE PROFESSIONALS

21 NCAC 11 .0104 LICENSE APPLICATION

(a) An application shall not be considered complete unless it is submitted using the Board's form which includes information such as name, address, education, employment history and the Board received the application fee.

(b) Both an initial and renewal license are valid for a period of three years.

*History Note: Authority G.S. 90-503;
Temporary Adoption Eff. May 5, 1998;
Eff. August 1, 2000;
Readopted Eff. April 1, 2017.*

21 NCAC 11 .0108 DISCIPLINARY ACTION/HEARING

(a) The Board shall impose discipline for conduct it finds in violation of G.S. 90.509 only after conducting a hearing in accordance with G.S. 150B, Article 3A.

(b) Board disciplinary action may include:

- (1) admonishment: a warning for misconduct;
- (2) reprimand: a public rebuke and sanction for misconduct;
- (3) suspension: temporary withdrawal of the privilege of using the title of Licensed Employee Assistance Professional during the time frame specified by the Board; and
- (4) revocation: permanent withdrawal of the privilege of using the title of Licensed Employee Assistance Professional. A Licensed Employee Assistance Professional whose license is revoked by the Board shall surrender the license certificate to the Board.

(c) Notification of final disciplinary action shall be made to the Employee Assistance Professionals Association and the Employee Assistance Certification Commission, within 30 days of the final action taken by the Board.

*History Note: Authority G.S. 90-509; 150B-40; 150B-41;
Temporary Adoption Eff. May 5, 1998;*

*Eff. August 1, 2000;
Readopted April 1, 2017.*

21 NCAC 11 .0111 FEES

(a) Upon submission of an application for initial licensure, a fee of one hundred dollars (\$100.00) shall be paid to the Board.

(b) A fee of seventy-five dollars (\$75.00) shall be paid to the Board for renewal of license.

*History Note: Authority G.S. 90-502; 90-503;
Temporary Adoption Eff. May 5, 1998;
Eff. August 1, 2000;
Readopted Eff. April 1, 2017.*

21 NCAC 11 .0112 PENALTIES

*History Note: Authority G.S. 90-506; 150B-38; 150B-39;
Temporary Adoption Eff. May 5, 1998;
Eff. August 1, 2000;
Repealed Eff. April 1, 2017.*

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CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16G .0101 FUNCTIONS THAT MAY BE DELEGATED

A dental hygienist may be delegated functions to be performed under the control and supervision of a dentist who shall be responsible for any and all consequences or results arising from performance of such acts and functions. In addition to the functions set out in G.S. 90-221(a) and 21 NCAC 16H .0203, functions that may be delegated to a dental hygienist, provided that a dentist has examined the patient and prescribed the procedure, include:

- (1) Taking impressions for study models and opposing casts that may be used for the construction of temporary or permanent dental appliances, adjustable orthodontic appliances, nightguards, and the repair of dentures or partials;
- (2) Applying sealants to teeth that do not require mechanical alteration prior to the application of such sealants;
- (3) Inserting matrix bands and wedges;
- (4) Placing cavity bases and liners;
- (5) Placing and removing rubber dams;
- (6) Cementing temporary restorations using temporary cement;
- (7) Applying acid etch materials and rinses;
- (8) Applying bonding agents;
- (9) Removing periodontal dressings;
- (10) Removing sutures;
- (11) Placing and removing gingival retraction cord;
- (12) Removing excess cement;
- (13) Flushing, drying, and temporarily closing root canals;
- (14) Placing and removing temporary restorations;

- (15) Placing and tying in or untying and removing orthodontic arch wires;
- (16) Inserting interdental spacers;
- (17) Fitting (sizing) orthodontic bands or brackets;
- (18) Applying dentin desensitizing solutions;
- (19) Performing periodontal screening;
- (20) Performing periodontal probing;
- (21) Performing subgingival exploration for or removal of hard or soft deposits;
- (22) Performing sulcular irrigation;
- (23) Applying resorbable sulcular antimicrobial or antibiotic agents;
- (24) Performing extra-oral adjustments that affect function, fit, or occlusion of any restoration or appliance; and
- (25) Initially forming and sizing orthodontic arch wires and placing arch wires after final adjustment and approval by the dentist.

*History Note: Authority G.S. 90-41; 90-221; 90-223(b); 90-233;
Eff. September 3, 1976;
Readopted Eff. September 26, 1977;
Amended Eff. April 1, 2017; August 1, 2016; April 1, 2015;
August 1, 2008; August 1, 2000; May 1, 1989; October 1, 1985;
March 1, 1985.*

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CHAPTER 30 – BOARD OF MASSAGE AND BODYWORK THERAPY

21 NCAC 30 .0504 DOCUMENTATION; REFERRALS

The licensee shall:

- (1) maintain documentation for each session, including the date of service, needs assessment, plan of care, observations made, and actions taken by the licensee;
- (2) refer the client to other health care practitioners or other professional service providers when the referral is in the best interest of the client or licensee;
- (3) follow recommendations for the plan of care when receiving a client referral from a medical care provider. Questions or concerns regarding the referrals shall be directed to the referring medical provider.

*History Note: Authority G.S. 90-626(9);
Temporary Adoption Eff. February 15, 2000;
Eff. April 1, 2001;
Amended Eff. September 2, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;
Amended Eff. April 1, 2017.*

21 NCAC 30 .0601 BOARD APPROVAL

(a) Any postsecondary school of higher education, whether in this State or another state or territory that offers a certificate, diploma, or degree program in massage and bodywork therapy may make application for Board approval. Every school shall submit an application to be considered for approval, whether or not such school has been licensed, approved, or accredited by another regulatory agency, accreditation commission, or trade association. A school that operates in more than one location shall submit a separate application for each location.

(b) The Board shall grant approval to postsecondary schools of higher education that meet the standards set forth in this Section. Such approval authorizes the school to offer a certificate, diploma, or degree program in massage and bodywork therapy that prepares individuals to become Licensed Massage and Bodywork Therapists in this State. The approval shall be for a period of one year unless increased pursuant to Paragraph (c) of this Rule. The Board shall maintain a list of approved schools.

(c) In order to maintain approval status, each school shall submit a report by April 1 of the year the school's approval expires. This report shall be on a form provided by the Board, that shall require documentation of authority to operate pursuant to Rule .0610 of this Section if granted by any entity other than this Board, student enrollments, and any changes in curriculum, instructional staff, or key administrative staff. If a school has remained in compliance with all Board rules for a period of five consecutive years and has no disciplinary action taken against it by the Board for a period of five consecutive years, the Board shall increase the period of approval for that school from one to two years.

(d) An approved school shall notify the Board in writing within 30 days of any change in the school's location address, ownership, controlling interest, key administrative staff, facilities, instructional staff, or curriculum.

(e) The school approval term begins on July 1 and ends on June 30. For the purposes of this Section, this term shall be considered the fiscal year.

(f) If a Board-approved school has not met the requirements for renewal by June 30 preceding the new fiscal year, its approval status shall be deemed expired.

(g) Approval shall be reinstated by the Board if a school whose approval has expired pursuant to Paragraph (f) of the Rule completes its renewal process by July 31 of the fiscal year. A school that has had its approval reinstated by July 31 shall be considered to have maintained its approval status on a continuous basis, pursuant to Paragraph (i) of this Rule.

(h) The Board shall not renew the approval of a school that has not met the approval standards by July 31 of the year in which the school is scheduled to renew.

(i) Pursuant to G.S. 90-629(4), "successful completion of a course of study at a Board-approved school" means that the applicant graduated from a school that maintained its approval status with the Board on a continuous basis during the applicant's time of enrollment.

History Note: Authority G.S. 90-626(9); 90-631;

Temporary Adoption Eff. February 15, 2000;

Eff. April 1, 2001;

Amended Eff. October 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014; Amended Eff. April 1, 2017.

21 NCAC 30 .0602 DEFINITIONS

In addition to the definitions in G.S. 90-622, the following definitions shall apply to this Section:

- (1) Accredited – means "accreditation" as defined in G.S. 90-622(1).
- (2) Additional location. -- A facility not part of, nor adjoining the facility of an approved school, where an approved school intends to offer a program. Each separate facility location is considered a separate school, requiring a new Application for School Approval to be submitted to the Board in accordance with Rule .0632 of this Chapter.
- (3) Additional program. -- A program that is of a different title, subject matter, or that increases or decreases by more than 10 percent the number of hours of instruction than the program under which the school received its initial approval from the Board. An approved school that intends to offer an additional program shall submit an Application for Additional Program Approval to the Board in accordance with Rule .0633 of this Chapter.
- (4) College – A postsecondary school of higher education that awards an Associate degree or higher.
- (5) Instructor. -- A person who meets the qualifications set forth in Rule .0612 who is responsible for delivering course content according to curricula established by the school, and who is responsible for managing the classroom environment.
- (6) Key administrative staff. -- The school's program director, director of education, and other administrative staff members who direct areas such as operations, admissions, financial aid, placement, or student services.
- (7) Massage and bodywork therapy school. – A postsecondary school of higher education that conducts a program, as defined in this Rule, for a tuition charge. Such institutions may be organized as proprietary schools that are privately owned and operated by a sole proprietor, partnership, corporation, association, or other entity; or may be postsecondary colleges or universities, whether publicly or privately owned.
- (8) One classroom hour of supervised instruction. - - At least 50 minutes of any one clock hour during which the student participates in a learning activity in the physical presence of a member of the school's instructional staff.
- (9) One year of professional experience. -- In determining the qualifications of administrative or instructional staff members, at least 500

hours of documented work in the professional job responsibility or subject area in a given year.

(10) Program. -- A course of study or curriculum consisting of a specified number hours of instruction consistent with the standards set forth in Rule .0620 that is intended to teach the skills and knowledge necessary for the professional practice of massage and bodywork therapy, as defined in G.S. 90-622(3). Each program of a specified number of instructional hours shall be considered a separate program for the purposes of Board approval, and shall require a separate application for approval.

(11) Student enrollment. -- The total number of students at an approved school in a designated fiscal year who have begun a program for which they have registered and paid a fee for that fiscal year, and who have completed more than 15 percent of such program.

(12) Teaching assistant. -- A person who meets the qualifications set forth in Rule .0612, who is in the classroom to support the role of the instructor, and who may provide instruction to students only in the presence of and under the direct supervision of the instructor.

History Note: Authority G.S. 90-626(9); 90-631; Temporary Adoption Eff. February 15, 2000; Temporary Adoption Eff. April 1, 2001 replaces the Temporary Adoption Eff. February 15, 2000; Eff. August 1, 2002; Amended Eff. August 1, 2009; October 1, 2007; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014; Amended Eff. April 1, 2017.

21 NCAC 30 .0618 ADMISSIONS

(a) A school shall maintain admission policies and procedures that are disclosed to the public and administered.

(b) A school shall conduct an orientation session for persons who have applied for admission or who are considering application for admission. The orientation shall include an overview of the program's educational objectives and curriculum, the academic and physical requirements of the program, existing employment opportunities in the field, the time and financial requirements of the program, and State requirements for licensure.

(c) Admissions standards shall be designed to ensure that only those applicants are admitted who have the cognitive, motor, and behavioral skills and moral character necessary to complete the program and to practice massage and bodywork therapy in a safe and effective manner.

(d) A school shall conduct a pre-enrollment interview with each applicant to determine the applicant's qualifications. The information gathered from this interview shall be evaluated with all written documentation submitted by the applicant before the school renders a decision on the application.

(e) A school shall only admit applicants who are high school graduates or who have earned a General Equivalency Diploma (GED).

(f) A school shall maintain written documentation of the basis for admission of the student. The records shall include copies of high school diploma, GED, or transcripts, proof of age, and other specific admission requirements of the school.

(g) Documentation of the reasons for the denial of admission of any student shall be maintained for three years.

(h) A school shall comply with the admissions standards of this Rule, but may enroll students in individual courses not leading to a credential.

History Note: Authority G.S. 90-626(9); 90-631;

Eff. October 1, 2007;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014; Amended Eff. April 1, 2017.

21 NCAC 30 .0620 PROGRAM REQUIREMENTS

Pursuant to G.S. 90-631(1), programs shall meet the following requirements:

(1) A school shall develop and adhere to a set of educational objectives that describe the intended skills, knowledge, and attitudes that the program is designed to develop in the student by the completion of the program;

(2) The program shall have a core curriculum of at least 500 classroom hours of supervised instruction. The core curriculum shall contain the following hours of specific course work that are consistent with the school's mission and educational objectives:

(a) 200 hours in the fundamental theory and practice of massage and bodywork therapy that is designed to produce comprehensive entry-level skills in the application of direct manipulation to the soft tissues of the human body, and is based in therapeutic methods consistent with the definition set forth in G.S. 90-622(3) such as Swedish massage, acupressure, shiatsu, deep muscle massage, trigger point therapy, and connective tissue bodywork. Of the 200 hours in this category, at least 100 hours shall be in the application of hands-on methods. The balance of the hours shall include client assessment skills, indications and contraindications for treatment, body mechanics, draping procedures, standard practices for hygiene and control of infectious diseases, and the history of massage and bodywork therapy;

(b) 100 hours in anatomy and physiology related to the practice of massage and bodywork therapy that shall include

the structure and function of the human body and common pathologies;

(c) 15 hours in professional ethics, and North Carolina laws and rules for the practice of massage and bodywork therapy;

(d) 15 hours in business management practices related to the practice of massage and bodywork therapy;

(e) 20 hours in psychological concepts related to the practice of massage and bodywork therapy, including dynamics of the client/therapist relationship, professional communication skills, the mind-body connection, and boundary functions;

(f) 150 hours in other courses related to the practice of massage and bodywork therapy. The courses may include additional hands-on techniques, specific applications, adjunctive modalities, in-depth anatomy and physiology, kinesiology, psychological concepts, or supervised clinical practice. First Aid or CPR shall not be included in this category. Techniques that are considered exempt from licensure pursuant to G.S. 90-624(6) or (7), and that are further defined by Rule .0203(a) constitute up to 50 hours of the 150 hours in this category.

(3) For programs that include a student clinic or fieldwork experiential component, the hours shall not exceed 100 hours of the minimum requirement set forth in Sub-item (2)(f) of this Rule. All work shall be in the presence of and directly supervised and evaluated by an instructional staff member;

(4) For programs that include an externship component, the hours shall not be included in the requirements set forth in Item (2) of this Rule, and shall not comprise more than 20 percent of the total program hours. All work at the externship site shall be supervised by a person at the externship site who is acceptable to the school, and shall be monitored and evaluated by the school;

(5) The program shall provide curriculum hours that allow its graduates to meet the minimum eligibility requirements for at least one of the competency assurance examinations that are approved by the Board as meeting the licensure requirement set forth in G.S. 90-629(5) and Rule .0201(a)(15);

(6) Programs shall consist of a series of courses that are organized in a logical sequence, and that are consistent with the educational objectives.

(7) Sequential organization means that within a course, each class prepares students for the next class. Material shall not be presented unless students have the necessary skills and knowledge to utilize that material;

(8) Course titles shall match the content of the course; published course descriptions shall reflect the specific learning objectives of each course; and sufficient hours shall be allotted to each course to allow students to gain competence in the subject areas covered;

(9) A course curriculum shall be developed for each course that shows the basic content of each individual class in the course in the sequence presented;

(10) Course requirements and competencies shall be consistent from instructor to instructor. Teaching materials, including lesson plans for every class taught, shall be developed and maintained for each course to ensure consistency. Teaching methods shall be appropriate to course content, and to diverse learning styles;

(11) Programs shall be at least 24 weeks in length, with no more than nine instructional hours in one day. There shall be no more than two hours of instruction without a break. There shall be no more than four hours of instruction without a meal break;

(12) For a student to receive credit in a course, the student shall attend 75 percent of the instructional hours of the course. The student shall also make up missed instructional hours to equal no less than 98 percent of the instructional hours in the course according to the procedures established by the school;

(13) A syllabus shall be developed for each course and provided to students prior to the beginning of instruction. The syllabus shall include the following elements:

- (a) course title;
- (b) course description;
- (c) learning objectives;
- (d) teaching methodologies;
- (e) total number of instructional hours;
- (f) meeting dates and class times;
- (g) assignments;
- (h) textbooks;
- (i) evaluation methods;
- (j) quiz and examination dates; and
- (k) performance standards.

(13) For post-secondary institutions, courses that fulfill the requirements set forth in Item (2) of this Rule shall support the program in massage and bodywork therapy. Courses in addition to these requirements may include courses from other departments or programs that are relevant to the practice of massage and bodywork therapy; and

(14) For classes that involve hands-on practice, the student to instructor ratio shall not exceed 16 to 1. Both instructors and teaching assistants, as defined in Rule .0612 of this Section, shall be considered in calculating these ratios.

History Note: Authority G.S. 90-626(9); 90-631;
Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;
Amended Eff. April 1, 2017.

21 NCAC 30 .0623 LEARNING RESOURCES

The school shall provide sufficient learning resources to students and instructional staff to support the educational objectives of the program as follows:

(1) the school shall maintain a resource center that contains or provides access to books, periodicals, and other informational materials in the field of massage and bodywork therapy. As an alternative, the school may have a contractual agreement with another facility to provide access to such resources; and

(2) all other resources, such as charts, models, or electronic media, shall be maintained.

History Note: Authority G.S. 90-626(9); 90-631;
Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;
Amended Eff. April 1, 2017.

21 NCAC 30 .0628 ETHICAL REQUIREMENTS IN ADVERTISING

The following requirements pertain to all advertising and promotional activities conducted by, or on behalf of the school, including such media utilized as print, broadcast, verbal presentations, electronic, internet, videotape, or audiotape:

(1) educational programs and services offered shall be the primary emphasis of all advertisements, publications, promotional literature, and recruitment activities, whether distributed to prospective students or the general public;

(2) all statements and representations made shall be accurate and current. Supporting information shall be kept on file and available for review for three years. All advertising and promotional materials shall include the correct name and location of the school;

(3) a school shall not falsely represent its facilities in photographs, illustrations, or through other means;

(4) the school catalog or bulletin shall contain all information required in Rule .0630 of this Section;

(5) all advertising and promotional activities shall indicate that massage and bodywork training and not employment is being offered. No overt or implied claim of individual employment

shall be made. No false or deceptive statements regarding employment opportunities or earning potential in the field of massage and bodywork as a result of the completion of the course of study shall be used to solicit students; letters of endorsement, commendation, or recommendation in favor of a school shall be used for advertising or promotion only with the written consent of the author without any offer of financial compensation, and only when such letters portray current conditions or facts. Letters shall contain the date they were received, shall be kept on file as required by Item (2) of this Rule, and be subject to inspection;

(6) programs that use placement information in advertisements, catalogs, or other printed documentation shall corroborate the data;

(7) school literature and advertisements shall not quote "high top" or "up to" salaries unless they also indicate the normal range or starting salaries for graduates;

(8) schools offering programs that are not approved by the Board shall identify which programs are Board approved;

(9) schools shall describe requirements for State licensure; and

(10) schools shall not defame competitors by falsely imputing to them dishonorable conduct, inability to perform on contracts, or by the false disparagement of the character, nature, quality, values, or scope of their educational services, or in any other defamatory respect.

History Note: Authority G.S. 90-626(9); 90-631;
Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. November 12, 2014;
Amended Eff. April 1, 2017.

21 NCAC 30 .0629 STUDENT ENROLLMENT AGREEMENT

(a) An approved school shall execute a Student Enrollment Agreement for training with every student. The agreement shall contain the following:

(1) name and telephone number of the school and location of where the student will attend classes;

(2) student's name, address, telephone number;

(3) name of the program in which student is enrolling, number of clock or credit hours of the program, beginning and ending dates, length of program in weeks or months, and expected graduation date;

(4) program tuition and all related costs, including application and registration fees and estimated cost of books and supplies;

(5) refund and cancellation policies, including student's right to cancel;

- (6) payment methods, including cash, installment payment plans, or financial aid (as applicable); interest charged; and methods used to collect delinquent tuition;
- (7) placement guarantee disclaimer;
- (8) grounds for dismissal from the school;
- (9) statement that you must hold a North Carolina massage and bodywork therapy license in order to practice massage and bodywork therapy in North Carolina;
- (10) statement that good moral character is a requirement for licensure as a massage and bodywork therapist in North Carolina and, pursuant to G.S. 90-629.1, the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character;
- (11) statement referencing the school catalog and student handbook as a part of the enrollment agreement;
- (12) statement certifying that student has read and understands all terms of the enrollment agreement; and
- (13) signature lines for school official and student.

(b) A copy of the signed and dated Student Enrollment Agreement shall be provided to the student and a copy shall be placed in the student's permanent file.

*History Note: Authority G.S. 90-626(9); 90-631;
Eff. October 1, 2007;
Amended Eff. November 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. November 12, 2014;
Amended Eff. April 1, 2017.*

21 NCAC 30 .0630 SCHOOL CATALOG

An approved school shall publish a catalog or bulletin that shall be certified by an official of the school as being current, true, and correct in content and policy. All school catalogs or bulletins, in print or online, shall be current and accurate. Updates shall be provided to maintain current information. Printed catalogs or bulletins shall contain addendums of the updates; and online sources, such as websites, shall be continuously updated. The catalog shall include the following information:

- (1) school name, location address, and phone number;
- (2) volume number and date of publication;
- (3) ownership structure, including type of legal entity and names of owners, Board of Directors members, or academic officers at public institutions;
- (4) names and titles of all instructional and key administrative staff;
- (5) statement of school mission, philosophy, and educational program objectives;

- (6) school history and identification of all licenses, approvals, or accreditations that the school maintains;
- (7) definition of measurement of program, whether in clock hours or credit hours;
- (8) course descriptions, including number of hours for each course;
- (9) graduation requirements, including type of credential issued upon graduation;
- (10) requirements for licensure, certification, or registration of therapists in the State;
- (11) standards for admission, description of the school's admissions process, and requirement of a signed Student Enrollment Agreement;
- (12) school calendar, including beginning and ending dates of all programs, all holidays and days off;
- (13) length of time required for completion of the program;
- (14) program tuition and all associated costs, including textbooks, supplies, and other expenses;
- (15) refund policy;
- (16) description of facilities and learning resources;
- (17) student services;
- (18) policy regarding prohibition of compensation to student for performing massage and bodywork therapy;
- (19) Academic policies, including the following:
 - (a) grading system;
 - (b) standards of satisfactory academic progress;
 - (c) description of disciplinary procedures, including conditions for probation, suspension, dismissal or expulsion, and conditions of reentrance for students dismissed;
 - (d) transfer of credit from other institutions;
 - (e) attendance requirements, make-up work, tardiness, leave of absence;
 - (f) standards of conduct, including a sexual harassment policy; and
 - (g) complaint policy, process for complaint resolution, name and address of the school regulatory agency for filing complaints when institutional process does not bring resolution; and
- (20) Statement pursuant to G.S. 90-629.1 that the North Carolina Board of Massage and Bodywork Therapy may deny a license to practice massage and bodywork therapy if an applicant has a criminal record or there is other evidence that indicates the applicant lacks good moral character.

*History Note: Authority G.S. 90-626(9); 90-631;
Eff. October 1, 2007;*

*Amended Eff. February 1, 2011;
Pursuant to G.S. 150B-21.3A, rule is necessary without
substantive public interest Eff. November 12, 2014;
Amended Eff. April 1, 2017.*

CHAPTER 52 – BOARD OF PODIATRY EXAMINERS

21 NCAC 52 .0214 NOTICE OF UNLICENSED ACTIVITY

The Board shall investigate unlicensed activity, including notice of possible violations, and seek injunctive relief pursuant to G.S. 90-202.13.

*History Note: Authority G.S. 90-202.3; 90-202.4; 90-202.8;
90-202.13;*
Eff. April 1, 2017

21 NCAC 52 .0409 COMPLAINTS

(a) Any person may file a complaint, pursuant to G.S. 150B, Article 3A, against a licensed podiatrist with the board by completing the online complaint form on the board website, <http://www.ncbpe.org> or by providing a completed hardcopy complaint form to the Board, which may be obtained from the board's offices as listed in Rule .0101 of this Chapter.

(b) The complaint shall set forth the name and contact information of the podiatrist against whom the complaint is lodged, a summary of the facts of the complaint, the complainant's name, mailing address and phone number, and whether or not a copy of the complaint may be sent to the podiatrist about whom the complaint is lodged. Within 14 days of a hardcopy complaint received by the board, a receipt notification shall be sent to the complainant by mail. If an online complaint has been submitted to the board, an electronic receipt notification shall automatically be generated and emailed to the board's Executive Secretary and the complainant. A copy of the complaint shall be sent to the respondent named in the complaint, if so authorized by the complainant; otherwise, the complaint shall be filed in the podiatrist's file for future reference. Should the complaint be sent to the podiatrist, said podiatrist shall respond to the complaint in writing to the board within 45 days of receipt of the complaint and provide the board with a copy of the complainant's medical records pursuant to any board request.

(c) At such time as a complaint is received at the board's office and authorization given by the complainant to share the complaint with the podiatrist against whom the complaint is lodged, the Executive Secretary shall notify the board's appointed Grievance Committee members with a copy of the complaint. A Grievance Committee member who does not have a conflict of interest as defined in G.S. 138A-36(a) shall be assigned to conduct an investigation to determine if probable cause exists that a violation of the Podiatry Practice Act (G.S. 90-202.8) may have occurred. After review, if the Grievance Committee determines that further investigation is required to determine if probable cause exists, an outside investigator may be retained with the board's permission.

(d) If the Grievance Committee member determines that no probable cause exists that there was a violation of the Podiatry Practice Act, the Grievance Committee member shall submit a

summary of his investigation and conclusion first to the remaining members of the Grievance Committee, and if the members concur, to the board for approval. If the decision is approved by the board at a regularly called meeting of the board, both the complainant and respondent shall be notified of the disposition of the case within 14 days of the board's decision.

(e) If the Grievance Committee determines that probable cause of a violation of the Podiatry Practice Act does exist, the Committee shall notify the board and an administrative hearing in compliance with Article 3A of G.S. 150B shall be scheduled. The complainant and the respondent shall be given Notice of the Hearing and the disposition of the case.

*History Note: Authority G.S. 90-202.4; 90-202.8; 150B-3;
Eff. April 1, 2017.*

CHAPTER 58 - REAL ESTATE COMMISSION

21 NCAC 58A .0101 PROOF OF LICENSURE

(a) The pocket card issued by the Commission annually to each broker shall be retained by the broker as evidence of licensure. Each broker shall produce a legible form of the card as proof of licensure whenever requested while engaging in real estate brokerage.

(b) Every licensed real estate business entity or firm shall prominently display its license certificate or a copy of its license certificate in each office maintained by the entity or firm. A broker-in-charge shall also display his or her license certificate in the office where he or she is broker-in-charge.

(c) A replacement real estate license or pocket card may be obtained by:

- (1) submitting a written request to the Commission that includes the broker or firm's:
 - (A) legal name;
 - (B) license number;
 - (C) physical and mailing address;
 - (D) phone number;
 - (E) email address;
 - (F) proof of legal name change pursuant to Rule .0103 of this Section, if applicable; and
 - (G) signature; and
- (2) paying a five dollar (\$5.00) duplicate license fee.

*History Note: Authority G.S. 93A-3(c); 93A-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2017; July 1, 2005; April 1, 2004; October 1, 2000; September 1, 1998; August 1, 1998; April 1, 1997; February 1, 1989.*

21 NCAC 58A .0103 BROKER NAME AND ADDRESS

(a) Upon initial licensure, every broker shall notify the Commission of the broker's current personal name, firm name, trade name, residence address, firm address, telephone number, and email address. All addresses provided to the Commission

shall be sufficiently descriptive to enable the Commission to correspond with and locate the broker.

(b) Every broker shall notify the Commission in writing of each change of personal name, firm name, trade name, residence address, firm address, telephone number, and email address within 10 days of said change. A broker notifying the Commission of a change of legal name or firm name shall also provide evidence of a legal name change for either the individual or firm, such as a court order or name change amendment from the Secretary of State's Office.

(c) In the event that any broker shall advertise or operate in any manner using a name different from the name under which the broker is licensed, the broker shall first file an assumed name certificate in compliance with G.S. 66-71.4 and shall notify the Commission in writing of the use of such a firm name or assumed name. An individual broker shall not advertise or operate in any manner that would mislead a consumer as to the broker's actual identity or as to the identity of the firm with which he or she is affiliated.

(d) A broker shall not include the name of a provisional broker or an unlicensed person in the legal or assumed name of a sole proprietorship, partnership, or business entity other than a corporation or limited liability company. No broker shall use a business name that includes the name of any current or former broker without the permission of that broker or that broker's authorized representative.

History Note: Authority G.S. 55B-5; 66-68; 93A-3(c); 93A-6(a)(1);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; July 1, 2016; April 1, 2013; August 1, 1998; February 1, 1989; May 1, 1984.

21 NCAC 58A .0106 DELIVERY OF INSTRUMENTS

(a) Except as provided in Paragraph (b) of this Rule, every broker shall deliver a copy of any written agency agreement, contract, offer, lease, rental agreement, option, or other related transaction document to their client within five days of the document's execution.

(b) A broker may be relieved of the duty to deliver copies of leases or rental agreements to a property owner pursuant to Paragraph (a) of this Rule if the broker:

- (1) obtains the prior written authority of the property owner to enter into and retain copies of leases or rental agreements on behalf of the property owner;
- (2) executes the lease or rental agreement on a pre-printed form, the material terms of which may not be changed by the broker without prior approval by the property owner, except as may be required by law; and
- (3) delivers to the property owner an accounting within 45 days following the date of execution of the lease or rental agreement that identifies:
 - (A) the leased property;
 - (B) the name, phone number, and home address of each tenant; and
 - (C) the rental rates and rents collected.

(c) Paragraph (b) of this Rule notwithstanding, upon the request of a property owner, a broker shall deliver a copy of any lease or rental agreement within five days.

History Note: Authority G.S. 93A-3(c);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; July 1, 2005; July 1, 2001; October 1, 2000; May 1, 1990; July 1, 1989; February 1, 1989.

21 NCAC 58A .0302 LICENSE APPLICATION AND FEE

(a) The fee for an original application of a broker or firm license shall be one hundred dollars (\$100.00).

(b) An applicant shall update information provided in connection with a license application in writing to the Commission or submit a new application form that includes the updated information without request by the Commission to ensure that the information provided in the application is current and accurate. Failure to submit updated information prior to the issuance of a license may result in disciplinary action against a broker or firm in accordance with G.S. 93A-6(b)(1). Upon the request of the Commission, an applicant shall submit updated information or provide additional information necessary to complete the application within 90 days of the request or the license application shall be canceled.

(c) The license application of an individual shall be canceled if the applicant fails to:

- (1) pass a scheduled license examination within 180 days of filing a complete application pursuant to Rule .0301 of this Section; or
- (2) appear for and take any scheduled examination without having the applicant's examination postponed or absence excused pursuant to Rule .0401 of this Subchapter.

History Note: Authority G.S. 93A-4; 93A-6(b)(1); 93A-9;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; April 1, 2006; July 1, 2004; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; July 1, 1998; July 1, 1996; February 1, 1989.

21 NCAC 58A .0304 WAIVER OF 75-HOUR PRELICENSING EDUCATION REQUIREMENT

The Commission shall grant a waiver of the 75-hour education program pursuant to G.S. 93A-4(a) if an applicant submits:

- (1) an application pursuant to Rule .0301 of this Section;
- (2) a written request for a waiver of the 75-hour education program; and either
- (3) a transcript and copy of a baccalaureate or higher degree in the field of real estate, real estate brokerage, real estate finance, real estate development, or a law degree conferred on the applicant from any college or university accredited by a college accrediting body recognized by the U. S. Department of Education; or

(4) a course completion certificate or transcript evidencing the completion of a prelicensing education program in another state that:

- (a) consisted of at least 75-hours of instruction;
- (b) was completed within one year prior to license application while the applicant was a resident of said state; and
- (c) is parallel to the topics and timings described in the Commission's Prelicensing course syllabus.

History Note: Authority G.S. 93A-4;
Eff. July 1, 1993;
Amended Eff. July 1, 2017; April 1, 2006; October 1, 2000.

21 NCAC 58A .0502 FIRM LICENSING

(a) Every business entity other than a sole proprietorship shall apply for and obtain from the Commission a firm license prior to engaging in business as a real estate broker.

(b) An entity that changes its business form other than by conversion shall submit a new firm license application upon making the change and obtain a new firm license. An entity that converts to a different business entity in conformity with and pursuant to applicable North Carolina General Statutes shall not be required to apply for a new license. However, such converted entity shall provide the information required by this Rule in writing to the Commission within 10 days of the conversion and shall include the duplicate license fee pursuant to Rule .0101(c) of this Subchapter.

(c) Firm license application forms shall be available on the Commission's website or upon request to the Commission and shall require the applicant to set forth:

- (1) the legal name of the entity;
- (2) the name under which the entity will do business;
- (3) the type of business entity;
- (4) the address of its principal office;
- (5) the entity's NC Secretary of State Identification Number if it is required to be registered with the Office of the NC Secretary of State;
- (6) each federally insured depository institution lawfully doing business in this State where the entity's trust account(s) will be held, if applicable;
- (7) the name, real estate license number, and signature of the proposed qualifying broker for the firm;
- (8) the address of and name of the proposed broker-in-charge for each office as defined in Rule .0110(a) of this Subchapter, along with a completed broker-in-charge designation form described in Rule .0110(f) of this Subchapter for each proposed broker-in-charge;
- (9) any past criminal conviction of and any pending criminal charge against any principal in the company or any proposed broker-in-charge;
- (10) any past revocation, suspension, or denial of a business or professional license of any principal

- in the company or any proposed broker-in-charge;
- (11) if a general partnership, a description of the applicant entity, including a copy of its written partnership agreement or if no written agreement exists, a written description of the rights and duties of the partners, and the name of each partner. If a partner is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;
- (12) if a limited liability company, a description of the applicant entity, including a copy of its written operating agreement or if no written agreement exists, a written description of the rights and duties of the managers, and the name of each manager. If a manager is an entity rather than a natural person, the name of each officer, partner, or manager of that entity, or any entity therein;
- (13) if a business entity other than a corporation, limited liability company, or partnership, a description of the organization of the applicant entity, including a copy of its organizational documents evidencing its authority to engage in real estate brokerage;
- (14) if a foreign business entity, a Certificate of Authority to transact business in North Carolina issued by the NC Secretary of State and an executed consent to service of process and pleadings; and
- (15) any other information required by this Rule.

(d) When the authority of a business entity to engage in the real estate business is unclear in the application or in law, the Commission shall require the applicant to declare in the firm license application that the applicant's organizational documents authorize the firm to engage in the real estate business and to submit organizational documents, addresses of affiliated persons, and similar information. For purposes of this Rule, the term "principal," when it refers to a person or entity, means any person or entity owning 10 percent or more of the business entity, or who is an officer, director, manager, member, partner, or who holds any other comparable position.

(e) After filing a firm license application with the Commission, the entity shall be licensed provided that it:

- (1) has one principal holding a broker license on active status in good standing who will serve as the qualifying broker; and
- (2) employs and is directed by personnel licensed as a broker in accordance with this Chapter.

The qualifying broker of a partnership of any kind shall be a general partner of the partnership; the qualifying broker of a limited liability company shall be a manager of the company; and the qualifying broker of a corporation shall be an officer of the corporation. A licensed business entity may serve as the qualifying broker of another licensed business entity if the qualifying broker-entity has as its qualifying broker a natural person who is licensed as a broker. The natural person who is qualifying broker shall assure to the Commission the performance

of the qualifying broker's duties with regard to both entities. A provisional broker may not serve as a qualifying broker.

(f) The licensing of a business entity shall not be construed to extend to the licensing of its partners, managers, members, directors, officers, employees or other persons acting for the entity in their individual capacities regardless of whether they are engaged in furthering the business of the licensed entity.

(g) The qualifying broker of a business entity shall assume responsibility for:

- (1) designating and assuring that there is at all times a broker-in-charge for each office and branch office of the entity as "office" and "branch office" are defined in Rule .0110(a) of this Subchapter;
- (2) renewing the real estate broker license of the entity;
- (3) retaining the firm's current pocket card at the firm and producing it as proof of firm licensure upon request and maintaining a photocopy of the firm license certificate and pocket card at each branch office thereof;
- (4) notifying the Commission of any change of business address or legal or trade name of the entity and the registration of any assumed business name adopted by the entity for its use;
- (5) notifying the Commission in writing of any change of his or her status as qualifying broker within 10 days following the change;
- (6) securing and preserving the transaction and trust account records of the firm whenever there is a change of broker-in-charge at the firm or any office thereof and notifying the Commission if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter;
- (7) retaining and preserving the transaction and trust account records of the firm upon termination of his or her status as qualifying broker until a new qualifying broker has been designated with the Commission or, if no new qualifying broker is designated, for the period of time records are required to be retained by Rule .0108 of this Subchapter;
- (8) notifying the Commission if, upon the termination of his or her status as qualifying broker, the firm's transaction and trust account records cannot be retained or preserved or if the trust account records are out of balance or have not been reconciled as required by Rule .0117 of this Subchapter; and
- (9) notifying the Commission regarding any revenue suspension, revocation of Certificate of Authority, or administrative dissolution of the entity by the NC Secretary of State within 10 days of the suspension, revocation, or dissolution.

(h) Every licensed business entity and every entity applying for licensure shall conform to all the requirements imposed upon it by the North Carolina General Statutes for its continued existence

and authority to do business in North Carolina. Failure to conform to such requirements shall be grounds for disciplinary action or denial of the entity's application for licensure.

(i) Upon receipt of notice from an entity or agency of this State that a licensed entity has ceased to exist or that its authority to engage in business in this State has been terminated by operation of law, the Commission shall cancel the license of the entity.

History Note: Authority G.S. 55-11A-04; 93A-3(c); 93A-4;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 2017; July 1, 2015; July 1, 2014; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004; July 1, 2003; October 1, 2000; August 1, 1998; January 1, 1997; July 1, 1994; May 1, 1990.

21 NCAC 58A .0503 LICENSE RENEWAL

(a) All real estate licenses issued by the Commission under G.S. 93A, Article 1 shall expire on June 30 following issuance. Any broker desiring renewal of his or her license shall renew on the Commission's website within 45 days prior to license expiration and shall submit a renewal fee of forty-five dollars (\$45.00). A broker who does not have the ability to renew online may renew by calling the Commission's office during normal business hours posted on the Commission's website.

(b) During the renewal process, every individual broker shall provide an email address to be used by the Commission. The email address may be designated by the broker as private in order to be exempt from public records disclosures pursuant to G.S. 93A-4(b2). A broker who does not have an email address is not required to obtain an email address to comply with this Rule.

(c) During the renewal process, every designated broker-in-charge shall disclose:

- (1) each federally insured depository institution lawfully doing business in this State where the trust account(s) for the broker-in-charge or the entity for which the broker-in-charge is designated is held, if applicable; and
- (2) any criminal conviction or occupational license disciplinary action that occurred within the previous year.

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-6;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. July 1, 1994; February 1, 1991; February 1, 1989;

Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. July 1, 2017; July 1, 2014; April 1, 2013; April 1, 2006; January 1, 2006; July 1, 2004; December 4, 2002; April 1, 1997; July 1, 1996; August 1, 1995.

21 NCAC 58A .0505 REINSTATEMENT OF A LICENSE

(a) The fee for reinstatement of a license that has been expired, revoked, suspended, or surrendered for less than two years shall

be an amount equal to two times the current renewal license fee pursuant to Rule .0503 of this Section.

(b) The reinstatement application form is available on the Commission's website and shall include the applicant's:

- (1) legal name;
- (2) mailing, physical, and email address;
- (3) telephone number;
- (4) previous license number;
- (5) Secretary of State identification number, if applicable;
- (6) social security number and date of birth, if applicable;
- (7) qualifying broker and broker-in-charge's legal name and license number, if applicable;
- (8) certification; and
- (9) signature.

(c) An individual seeking reinstatement of a license that has been expired or revoked for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.

(d) An individual seeking reinstatement of a license that has been expired, revoked, or surrendered for six months but no more than two years shall:

- (1) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule;
- (2) submit the reinstatement fee pursuant to Paragraph (a) of this Rule; and either
 - (A) complete one Postlicensing course within six months prior to submitting his or her reinstatement application;
 - (B) pass both the "National" and "State" sections of the current license examination within 180 days after submitting his or her reinstatement application; or
 - (C) pass only the "State" section of the current license examination within 180 days after submitting his or her reinstatement application if the individual possesses an active broker license in another state.

(e) An individual seeking reinstatement of a license that has been expired, revoked, or surrendered for two years or more shall submit:

- (1) an original license application; and
- (2) the original license application fee pursuant to G.S. 93A-4 and Rules .0301 and .0302 of this Subchapter.

(f) A business entity seeking reinstatement of a license that has been expired or revoked:

- (1) for less than six months shall submit the reinstatement fee pursuant to Paragraph (a) of this Rule.
- (2) for six months but no more than two years shall:
 - (A) submit a complete reinstatement application pursuant to Paragraph (b) of this Rule; and
 - (B) submit the reinstatement fee pursuant to Paragraph (a) of this Rule.

(3) for more than two years shall file an original firm license application pursuant to G.S. 93A-4 and Rules .0301, .0302, and .0502 of this Subchapter.

(g) A license shall be reinstated with the same license number and status, either full or provisional, it held before expiration, revocation, or surrender if reinstated within three years from the expiration, revocation, or surrender and shall be effective as of the date of reinstatement, not the date of original licensure. If a license is reinstated after three years from the expiration, revocation, or surrender, the license shall be on provisional broker status pursuant to G.S. 93A-4(a1). An individual seeking reinstatement of a license on active status shall satisfy the requirements of Rule .1703 of this Subchapter.

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Temporary Amendment Eff. April 24, 1995 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner;

Amended Eff. July 1, 2017; January 1, 2012; July 1, 2009; January 1, 2008; April 1, 2004; July 1, 2000; August 1, 1998; July 1, 1996; August 1, 1995; July 1, 1995.

21 NCAC 58A .0509 DUPLICATE LICENSE FEE

History Note: Authority G.S. 93A-4(c),(d);

Eff. December 1, 1985;

Amended Eff. February 1, 1989;

Repealed Eff. July 1, 2017.

21 NCAC 58A .0511 LICENSING OF PERSONS LICENSED IN ANOTHER JURISDICTION

(a) For purposes of this Rule, "Jurisdiction" shall mean a state, territory, or possession of the United States or Canada.

(b) An individual seeking a real estate license who, at the time of application, holds a current real estate license in another jurisdiction that has been on active status within the three years prior to application may request a waiver of the 75-hour education program required by G.S. 93A-4(a) and the "National" section of the North Carolina real estate license examination, as defined in Rule .0402(b) of this Subchapter, by submitting an official certification of licensure issued within the six months preceding application to the Commission along with their application for licensure pursuant to Rule .0301 of this Subchapter.

(c) Brokers who were licensed in North Carolina by reciprocity shall be entitled to retain such license indefinitely, unless suspended, revoked, or surrendered pursuant to G.S. 93A-6, so long as the license is renewed or is reinstated pursuant to Rule .0505 of this Section.

(d) A military-trained or military spouse applicant seeking a temporary practice permit shall:

- (1) be licensed, certified, or registered in another jurisdiction that has standards equivalent to G.S. 93A-4;
- (2) satisfy the requirements for licensure under G.S. 93B-15.1(a) or G.S. 93B-15.1(b); and

- (3) provide a copy of the official military order or a written verification signed by the commanding officer.
- (e) The military-trained or military spouse applicant may engage in brokerage activity under the temporary practice permit until a license is granted or until a notice to deny a license is issued, whichever occurs sooner.
- (f) A temporary practice permit shall automatically expire after 180 days from issuance. An applicant that is issued a temporary practice permit under this Subchapter shall remain a provisional broker for the duration of the permit.

History Note: Authority G.S. 93A-3(c); 93A-4; 93A-4.1; 93A-9(a); 93B-15.1;

Eff. January 1, 2012;

Amended Eff. July 1, 2018; April 1, 2013; February 1, 2012.

21 NCAC 58A .0512 DEATH OR INCAPACITY OF SOLE PROPRIETOR

(a) If a licensed real estate broker engaged in business as a sole proprietor pursuant to G.S. 93A-2(a) dies or becomes incapacitated, the Commission shall issue a temporary license to the executor or administrator of the estate of the deceased sole proprietor broker or to the court-appointed fiduciary of the incapacitated sole proprietor broker upon receipt of the following:

- (1) a written notification to the Commission of the date of the broker's death or disability; and
- (2) a certified copy of the court order appointing the executor, administer, or fiduciary.

(b) A temporary license shall be valid only for the purpose of distributing trust money held or paying commissions owed by the sole proprietor broker at the time of death or incapacity, but shall not otherwise entitle the holder to undertake any action for which a real estate license is required.

(c) The temporary license shall be valid for one year from issuance.

History Note: Authority G.S. 93A-2;

Eff. July 1, 2018.

21 NCAC 58A .1702 CONTINUING EDUCATION REQUIREMENT

(a) Except as provided in Rules .1708 and .1711 of this Section, the broker shall complete eight credit hours of real estate continuing education courses approved pursuant to 21 NCAC 58H within one year prior to the expiration of the license as follows:

- (1) four credit hours of elective courses; and
- (2) four hours of either:
 - (A) the "General Update Course;" or
 - (B) for a broker-in-charge, the "Broker-In-Charge Update Course" in lieu of the "General Update Course."

(b) Continuing education courses shall be completed upon the second renewal following the initial licensure and upon each subsequent annual renewal.

(c) The broker shall provide the course completion certificate upon request of the Commission.

(d) No continuing education shall be required to renew a broker license on inactive status. In order to change a license from inactive status to active status, the broker shall satisfy the continuing education requirement described in Rule .1703 of this Section.

(e) No continuing education shall be required for a broker who is a member of the U.S. Congress or the North Carolina General Assembly in order to renew his or her license on active status.

(f) For purposes of this Rule, the terms "active status" and "inactive status" shall have the same definition as those in Rule .0504 of this Subchapter.

(g) For continuing education purposes, the term "initial licensure" shall include the first time that a license of a particular type is issued to a person, the reinstatement of a canceled, revoked or surrendered license, and any license expired for more than six months.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 2014; April 1, 2006; July 1, 2005; April 1, 2004; October 1, 2000; August 1, 1998; July 1, 1996.

21 NCAC 58A .1703 CONTINUING EDUCATION FOR LICENSE ACTIVATION

(a) A broker requesting to change an inactive license to active status on or after the broker's second license renewal following his or her initial licensure shall have completed the continuing education as described in Paragraph (b) or (c) of this Rule, whichever is appropriate.

(b) If the inactive broker's license has not been on active status since the preceding July 1 and the broker has a deficiency in his or her continuing education record for the previous license period, the broker shall make up the deficiency and satisfy the continuing education requirement pursuant to Rule .1702 of this Section for the current license period in order to activate the license. Any deficiency may be made up by completing, during the current license period or previous license period, approved continuing education elective courses; however, such courses shall not be credited toward the continuing education requirement for the current license period. When crediting elective courses for purposes of making up a continuing education deficiency, the maximum number of credit hours that will be awarded for any course is four hours.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; April 1, 2006; July 1, 2000; July 1, 1995.

21 NCAC 58A .1705 ATTENDANCE AND PARTICIPATION REQUIREMENTS

(a) In order to receive credit for completing an approved continuing education course, a broker shall:

- (1) attend at least 90 percent of the scheduled instructional hours for the course;
- (2) provide his or her legal name and license number to the course sponsor;

- (3) present his or her pocket card or photo identification card, if necessary; and
- (4) personally perform all work required to complete the course.

(b) With the instructor or the sponsor's permission, a 10 percent absence allowance shall be permitted at any time during the course, except that it may not be used to skip the last 10 percent of the course unless the absence is:

- (1) approved by the instructor; and
- (2) for circumstances beyond the broker's control that could not have been reasonably foreseen by the broker, such as:
 - (A) an illness;
 - (B) a family emergency; or
 - (C) acts of God.

(c) With regard to the Commission's 12-hour Broker-In-Charge Course that is taught over two days, a broker shall attend at least 90 percent of the scheduled instructional hours on each day of the course and the 10 percent absence allowance referred to in Paragraph (b) of this Rule shall apply to each day of the course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 2010.

21 NCAC 58A .1708 EQUIVALENT CREDIT

(a) The Commission shall award a broker continuing education credit for teaching a Commission Update Course. A broker seeking continuing education credit for teaching a Commission Update Course shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, instructor number, address, telephone number, and email address;
- (2) Update Course number;
- (3) sponsor's name and number;
- (4) sponsor's address; and
- (5) date the course was taught.

(b) The Commission shall award a broker continuing education elective credit for teaching a Commission approved continuing education elective for the first time any given continuing education elective is taught. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) course number;
- (4) sponsor's name and number;
- (5) sponsor's address; and
- (6) date the course was taught.

(c) The Commission may award continuing education elective credit for completion of an unapproved course that the Commission finds equivalent to the elective course component of the continuing education requirement set forth in 21 NCAC 58H .0407(a). The broker shall submit a course completion certificate issued by the course sponsor, a copy of the course description or course outline, and a fifty dollar (\$50.00) fee for each course for

which the broker seeks credit. A broker seeking continuing education credit for a course that is not approved by the Commission shall submit a form, available on the Commission's website, that requires the broker to set forth the:

- (1) broker's name, license number, address, telephone number, and email address;
- (2) course title;
- (3) number of instructional hours;
- (4) course instructor's name; and
- (5) course sponsor's name, address, telephone number, and email address.

(d) The Commission may award continuing education elective credit for developing a continuing education elective course that is approved by the Commission pursuant to 21 NCAC 58H .0400. However, a broker shall only receive credit for the year in which the continuing education elective is approved. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the course title, the course number, the date of the course approval, and a fifty dollar (\$50.00) fee for each course for which the broker seeks credit.

(e) The Commission may award continuing education elective credit for authoring a real estate textbook. However, a broker shall receive credit for any single textbook only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit the title page of the textbook, showing the title, publisher, and publication date, the table of contents, and a fifty dollar (\$50.00) fee for each textbook for which the licensee seeks credit.

(f) The Commission may award continuing education elective credit for authoring of a scholarly article on a real estate topic published in a professional journal or periodical. A broker shall receive credit for any single article only once. A broker seeking continuing education credit under this Paragraph shall submit a form, available on the Commission's website, that requires the broker to set forth the broker's name, license number, address, telephone number, and email address. Along with the form, the broker shall submit a copy of the article, proof of publication, and a fifty dollar (\$50.00) fee for each article for which the broker seeks credit.

(g) In order for any application for equivalent credit to be considered and credits applied to the current licensing period, a complete application, the appropriate fee, and all supporting documents shall be received by the Commission no later than 5:00 p.m. on June 10.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; April 1, 2006; July 1, 2001; July 1, 2000; March 1, 1996; July 1, 1995.

21 NCAC 58A .1709 EXTENSIONS OF TIME TO COMPLETE CONTINUING EDUCATION

(a) A broker on active status may request an extension of time to satisfy the continuing education requirement for the current license period if the broker was unable to obtain the necessary education due to an incapacitating illness, military deployment, or other circumstance that existed for a portion of the license period and that constituted a severe hardship.

(b) Requests for an extension of time shall be submitted on a form available on the Commission's website that requires the broker to set out the broker's name, mailing address, license number, telephone number, email address, and a description of the incapacitating illness or other circumstance. The requesting broker shall submit, along with the form, supporting documentation, such as a written physician's statement, deployment orders, or other corroborative evidence, demonstrating that compliance with the continuing education requirement would have been impossible or burdensome.

(c) All requests for an extension of time shall be received by the Commission by 5:00 p.m. on June 10 of the licensing period for which the extension is sought.

(d) If an extension of time is granted, the broker shall be permitted to renew his or her license on active status. The broker's license shall automatically change to inactive status if the broker fails to satisfy the continuing education requirement prior to the end of the extension period.

(e) In no event shall an extension of time be granted that extends the continuing education requirement deadline beyond June 10 of the license year following the license year in which the request is made.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; August 1, 2014; October 1, 2000.

21 NCAC 58A .1710 DENIAL OR WITHDRAWAL OF CONTINUING EDUCATION CREDIT

(a) The Commission shall deny continuing education credit claimed by a broker or reported by a course sponsor for a broker, and shall withdraw continuing education credit previously awarded by the Commission to a broker upon finding that the broker:

- (1) or course sponsor provided incorrect or incomplete information to the Commission concerning continuing education completed by the broker;
- (2) failed to comply with the attendance requirement established by Rule .1705 of this Section; or
- (3) was mistakenly awarded continuing education credit due to an administrative error.

(b) If an administrative error or an incorrect report by a course sponsor results in the denial or withdrawal of continuing education credit for a broker, the Commission shall, upon the written request of the broker, grant the broker an extension of time to satisfy the continuing education requirement.

(c) A broker who obtains or attempts to obtain continuing education credit through misrepresentation of fact, dishonesty, or

other improper conduct shall be subject to disciplinary action pursuant to G.S. 93A-6.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 1994;

Amended Eff. July 1, 2017; July 1, 1995.

21 NCAC 58A .1711 CONTINUING EDUCATION REQUIRED OF NONRESIDENT BROKERS

(a) To be considered a nonresident for continuing education purposes, a real estate broker licensed in North Carolina shall not have a North Carolina business address, mailing address, or residence address at the time he or she applies for license renewal if he or she seeks to renew his or her license on active status. A nonresident North Carolina broker who wishes to renew his or her license on active status may satisfy the continuing education requirement by any one of the following means:

- (1) A nonresident broker may, at the time of license renewal, hold a real estate license on active status in another state and certify on a form prescribed by the Commission that the broker holds such license. If at any time after renewal there is a change in the status of the out-of-state license, the nonresident broker shall notify the Commission within 10 days and request that his or her North Carolina license be placed on inactive status, or provide evidence to the Commission that he or she has satisfied either Subparagraph (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.
- (2) A nonresident broker may, within one year preceding license expiration, complete the Commission-prescribed Update course plus one Commission-approved continuing education elective course, or complete two Commission-approved continuing education elective courses.
- (3) A nonresident broker may, within one year preceding license expiration, complete eight classroom hours in courses approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken. To obtain credit for a continuing education course completed in another state and not approved by the Commission, the broker must submit a written request for continuing education credit accompanied by a fee of fifty dollars (\$50.00) per request and evidence that the course was completed and that the course was approved for continuing education credit by the real estate licensing agency in the broker's state of residence or in the state where the course was taken.
- (4) A nonresident broker may obtain eight hours equivalent credit for a course or courses not approved by the Commission or for related educational activities as provided in Rule .1708 of this Section. The maximum amount of

continuing education credit the Commission will award a nonresident broker for an unapproved course or educational activity shall be eight hours.

(b) When requesting to change an inactive license to active status, or when applying for reinstatement of a license expired for not more than six months, a nonresident broker may satisfy the continuing education requirements described in Rules .0505 and .1703 of this Subchapter by complying with any of the options described in Paragraph (a) of this Rule, except that the requirements in Subparagraphs (a)(2) and (a)(3) of this Rule restricting the taking of courses to one year preceding license expiration shall not be applicable.

(c) No carry-over credit to a subsequent license period shall be awarded for a course taken in another state that has not been approved by the North Carolina Real Estate Commission as an elective course pursuant to 21 NCAC 58H .0406.

(d) A nonresident broker who has renewed his or her license on active status pursuant to Paragraph (a) of this Rule shall notify the Commission within 10 days if he or she subsequently affiliates with an office with a North Carolina business or mailing address, or becomes a resident of this State, and within 30 days provide evidence to the Commission that he or she has satisfied the requirements of either Subparagraphs (a)(2) or (a)(3) of this Rule or the requirements of Rule .1702 of this Section.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1994;
Amended Eff. July 1, 2017; July 1, 2015; January 1, 2008; April 1, 2006; October 1, 2000; March 1, 1996; July 1, 1995.

21 NCAC 58A .1904 DENIAL OR WITHDRAWAL OF POSTLICENSING EDUCATION CREDIT

(a) The Commission may deny Postlicensing education credit claimed by a provisional broker or reported by a school for a provisional broker, and may withdraw Postlicensing education credit previously awarded by the Commission to a provisional broker and make appropriate license status changes for that broker upon finding that:

- (1) the provisional broker or school provided incorrect or incomplete information to the Commission concerning Postlicensing education completed by the provisional broker;
- (2) the provisional broker was mistakenly awarded Postlicensing education credit due to an administrative error; or
- (3) the provisional broker attended a Postlicensing course while concurrently attending a different Postlicensing course at the same school or a different school if such concurrent attendance in the two courses resulted in the provisional broker participating in Postlicensing course sessions for more than 30 instructional hours in any given seven-day period.

(b) When Postlicensing education credit is denied or withdrawn by the Commission under Paragraph (a) of this Rule, the provisional broker shall remain responsible for satisfying the Postlicensing education requirement in G.S. 93A-4(a1).

(c) A broker who obtains or attempts to obtain Postlicensing education credit through misrepresentation of fact, dishonesty or other improper conduct is subject to disciplinary action pursuant to G.S. 93A-6.

History Note: Authority G.S. 93A-4;

Eff. April 1, 2006;

Amended Eff. July 1, 2017; July 1, 2009.

21 NCAC 58A .1905 WAIVER OF 90-HOUR POSTLICENSING EDUCATION REQUIREMENT

(a) A provisional North Carolina real estate broker may apply for a waiver of one or more of the three 30-hour Postlicensing courses described in Rule .1902 of this Section in the following circumstances:

- (1) the broker has obtained equivalent education that is parallel to the topics and timings described in the Commission's Postlicensing course syllabi. In this case, the waiver request shall include the course(s):
 - (A) jurisdiction of delivery;
 - (B) title;
 - (C) credit hours earned;
 - (D) beginning and end dates; and
 - (E) detailed subject matter description.
- (2) the broker has obtained full-time experience as a licensed broker or salesperson in another state for at least five of the seven years immediately prior to application for waiver, which shall include the applicant's:
 - (A) employer;
 - (B) title at employer;
 - (C) dates of employment;
 - (D) hours per week devoted to brokerage;
 - (E) approximate number of transactions;
 - (F) areas of practice;
 - (G) approximate percentage of time devoted to each area of practice;
 - (H) detailed description of applicant's role and duties;
 - (I) managing broker's name, telephone number, and email address; and
 - (J) official certification of licensure issued within the six months preceding application from a jurisdiction within a state, territory, or possession of the United States or Canada in which the applicant holds a current real estate license that has been active within the three years prior to application.
- (3) the broker has obtained full-time experience as a licensed North Carolina attorney practicing primarily in real estate matters for the two years immediately preceding application, which shall include the applicant's:
 - (A) firm or practice name;
 - (B) law license number;
 - (C) dates of employment;

(D) hours per week devoted to real estate law practice;
(E) approximate number of closings conducted;
(F) detailed description of practice; and
(G) manager or supervising attorney's name, telephone number, and email address.

(b) The Commission shall not consider education or experience obtained in violation of any law or rule as fulfilling the requirements for waiver of the 90-hour postlicensing education requirement.

History Note: Authority G.S. 93A-4(a1);
Eff. July 1, 2017.

**21 NCAC 58C .0101 APPLICABILITY:
REQUIREMENT FOR APPROVAL**
21 NCAC 58C .0102 APPLICATION FOR APPROVAL
21 NCAC 58C .0103 CRITERIA FOR APPROVAL
**21 NCAC 58C .0104 SCOPE, DURATION AND
RENEWAL OF APPROVAL**

History Note: Authority G.S. 93A-4;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. July 1, 2010; April 1, 2006; July 1, 1996; July 1, 1994; May 1, 1990; February 1, 1989; November 1, 1987; September 1, 1984;
Repealed Eff. July 1, 2017.

**21 NCAC 58C .0105 WITHDRAWAL OR DENIAL OF
APPROVAL**

History Note: Authority G.S. 93A-4; 93A-6;
Eff. September 1, 1979;
Amended Eff. July 1, 2009; April 1, 2006; July 1, 2000; July 1, 1994; May 1, 1990; February 1, 1989; November 1, 1987;
Repealed Eff. July 1, 2017.

**21 NCAC 58C .0107 USE OF EXAMINATION
PERFORMANCE DATA**

History Note: Authority G.S. 93A-4(a),(d);
Eff. September 1, 1984;
Amended Eff. July 1, 2000; July 1, 1994; May 1, 1990;
Repealed Eff. July 1, 2017.

**21 NCAC 58C .0108 STUDENT EVALUATIONS OF
INSTRUCTOR PERFORMANCE**

History Note: Authority G.S. 93A-4(a),(d);
Amended Eff. July 1, 2000;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0201 APPLICABILITY

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. October 1, 1980;

*Amended Eff. February 1, 1989; December 1, 1987;
Transferred and Recodified from 21 NCAC 58A .1301 Eff.
November 27, 1989;
Repealed Eff. July 1, 2017.*

21 NCAC 58C .0202 ORIGINAL APPLICATION FEE

History Note: Authority G.S. 93A-33; 93A-34(b);
Eff. July 1, 1990;
Amended Eff. April 1, 2006; July 1, 1994;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0203	SCHOOL NAME
21 NCAC 58C .0204	COURSES
21 NCAC 58C .0205	ADDITIONAL COURSE
OFFERINGS	
21 NCAC 58C .0206	ADMINISTRATION
21 NCAC 58C .0207	FACILITIES AND EQUIPMENT
21 NCAC 58C .0208	BULLETINS
21 NCAC 58C .0209	ENROLLMENT PROCEDURES
AND CONTRACTS	
21 NCAC 58C .0210	ADMISSIONS POLICY AND PRACTICE
21 NCAC 58C .0211	RECORDS
21 NCAC 58C .0212	ENFORCEMENT OF INSTITUTIONAL STANDARDS
21 NCAC 58C .0213	PERFORMANCE BOND
21 NCAC 58C .0214	ADVERTISING AND RECRUITMENT ACTIVITIES

History Note: Authority G.S. 93A-4; 93A-4(a),(d); 93A-33;
93A-34;
Eff. October 1, 1980;
Amended Eff. February 1, 1989; December 1, 1987; November 1, 1987; April 1, 1987; September 1, 1984;
Transferred and Recodified from 21 NCAC 58A .1303 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1304 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1305 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1306 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1307 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1308 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1309 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1310 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1311 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1312 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1313 Eff.
November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1314 Eff.
November 27, 1989;

Amended Eff. July 1, 2014; January 1, 2012; July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 2005; July 1, 2001; July 1, 2000; July 1, 1994; July 1, 1993; July 1, 1990; Repealed Eff. July 1, 2017.

21 NCAC 58C .0216 CHANGES DURING THE LICENSING PERIOD
21 NCAC 58C .0217 LICENSE RENEWAL AND FEES
21 NCAC 58C .0218 LICENSING EXAM
CONFIDENTIALITY: SCHOOL PERFORMANCE/LICENSING

History Note: Authority G.S. 93A-4; 93A-4(a),(d); 93A-33; 93A-34(b); 93A-35(b);
Eff. October 1, 1980;
Amended Eff. February 1, 1989; April 1, 1987; December 1, 1987; September 1, 1984;
Transferred and Recodified from 21 NCAC 58A .1316 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1317 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1318 Eff. November 27, 1989;
Amended Eff. July 1, 2009; April 1, 2006, September 1, 2002; July 1, 2000; July 1, 1994; July 1, 1990;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0219 VIOLATIONS OF THE AMERICANS WITH DISABILITIES ACT

History Note: Authority G.S. 93A-3(c); 93A-33;
Eff. July 1, 1993;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0220 STUDENT EVALUATIONS OF INSTRUCTOR PERFORMANCE

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. July 1, 2000;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0221 TRANSFER OF SCHOOL OWNERSHIP

History Note: Authority G.S. 93A-33; 93A-34; 93A-35;
Eff. July 1, 2014;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0301 PURPOSE AND APPLICABILITY
21 NCAC 58C .0302 PROGRAM STRUCTURING AND ADMISSION REQUIREMENTS
21 NCAC 58C .0303 COURSE CONTENT
21 NCAC 58C .0304 COURSE COMPLETION STANDARDS
21 NCAC 58C .0305 COURSE SCHEDULING
21 NCAC 58C .0306 TEXTBOOKS
21 NCAC 58C .0307 INSTRUCTORS

History Note: Authority G.S. 93A-4; 93A-4(a1); 93A-4(a),(d); 93A-33; 93A-34; 93A-75(a);

Eff. September 1, 1979;
Amended Eff. November 1, 1987; May 1, 1987; April 1, 1987; September 1, 1984; September 1, 1983; January 1, 1981; August 1, 1980;
Recodified Paragraphs (d) and (e) to Rule 58A .1113 (a) and (b) Eff. January 6, 1989;
Amended Eff. February 1, 1989;
Transferred and Recodified from 21 NCAC 58A .1101 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1102 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1104 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1105 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1107 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1108 Eff. November 27, 1989;
Transferred and Recodified from 21 NCAC 58A .1109 Eff. November 27, 1989;
Amended Eff. May 1, 1990;
Temporary Amendment Eff. July 5, 1990, For a Period of 180 Days to Expire on January 1, 1991;
Amended Eff. January 1, 1991; February 1, 1991;
Temporary Amendment Eff. April 5, 1991, For a Period of 180 Days to Expire on October 2, 1991;
Temporary Amendment Eff. May 9, 1991, For a Period of 146 Days to Expire on October 2, 1991;
Amended Eff. July 1, 2010; July 1, 2009; January 1, 2008; April 1, 2006; September 1, 2002; October 1, 2000; July 1, 2000; July 1, 1996; July 1, 1994; July 1, 1993; October 1, 1991;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0309 COURSE COMPLETION REPORTING

History Note: Authority G.S. 93A-4(a); 93A-4(a2); 93A-4(d); 93A-33;
Eff. September 1, 1979;
Amended Eff. February 1, 1989; September 1, 1984; January 1, 1981;
Transferred and Recodified from 21 NCAC 58A .1111 Eff. November 27, 1989;
Amended Eff. July 1, 2014; July 1, 2009; January 1, 2008; April 1, 2006; July 1, 1994; May 1, 1990;
Repealed Eff. July 1, 2017.

21 NCAC 58C .0310 COURSE RECORDS

History Note: Authority G.S. 93A-4(a),(d); 93A-33;
Eff. September 1, 1984;
Recodified from Rule 58A .1105 (d) and (e) Eff. January 6, 1989;
Transferred and Recodified from 21 NCAC 58A .1113 Eff. November 27, 1989;
Amended Eff. July 1, 2014; October 1, 2000; May 1, 1990;
Repealed Eff. July 1, 2017.

**21 NCAC 58C .0311 INSTRUCTIONAL DELIVERY
METHODS**
**21 NCAC 58C .0312 EXCEPTION FOR PERSONS
WITH DISABILITIES**

History Note: Authority G.S. 93A-3(c); 93A-4(a); 93A-34;
Eff. July 1, 1996;
Amended Eff. April 1, 2006; April 1, 2004; July 1, 2000;
Repealed Eff. July 1, 2017.

**21 NCAC 58C .0313 NOTICE OF SCHEDULED
COURSES**

History Note: Authority G.S. 93A-4(a1),(d); 93A-33;
Eff. January 1, 2008;
Amended Eff. July 1, 2009;
Repealed Eff. July 1, 2017.

**21 NCAC 58C .0601 PURPOSE AND APPLICABILITY
21 NCAC 58C .0602 NATURE AND SCOPE OF
INSTRUCTOR APPROVAL
21 NCAC 58C .0603 APPLICATION AND CRITERIA
FOR ORIGINAL APPROVAL
21 NCAC 58C .0604 INSTRUCTOR PERFORMANCE
21 NCAC 58C .0605 REQUEST FOR
EXAMINATIONS AND VIDEO RECORDINGS
21 NCAC 58C .0606 POSTLICENSING COURSE
REPORTS
21 NCAC 58C .0607 EXPIRATION, RENEWAL, AND
REINSTATEMENT OF APPROVAL
21 NCAC 58C .0608 DENIAL OR WITHDRAWAL OF
APPROVAL**

History Note: Authority G.S. 93A-4; 93A-4(a),(d); 93A-33;
93A-34;
Eff. October 1, 2000;
Amended Eff. July 1, 2015; January 1, 2012; July 1, 2009;
January 1, 2008; April 1, 2006; July 1, 2005; April 1, 2004;
September 1, 2002;
Repealed Eff. July 1, 2017.

**21 NCAC 58E .0101 PURPOSE AND APPLICABILITY
21 NCAC 58E .0102 UPDATE COURSE
COMPONENT
21 NCAC 58E .0103 APPLICATION FOR ORIGINAL
APPROVAL
21 NCAC 58E .0104 CRITERIA FOR APPROVAL OF
UPDATE COURSE SPONSOR
21 NCAC 58E .0105 STUDENT FEE FOR UPDATE
COURSES**

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A;
Eff. July 1, 1994;
Amended Eff. July 1, 2014; April 1, 2006; July 1, 2000; July 1,
1995;
Repealed Eff. July 1, 2017.

**21 NCAC 58E .0201 PURPOSE AND APPLICABILITY
21 NCAC 58E .0202 NATURE AND SCOPE OF
APPROVAL
21 NCAC 58E .0203 APPLICATION AND CRITERIA
FOR ORIGINAL APPROVAL
21 NCAC 58E .0204 ACTIVE AND INACTIVE
STATUS; RENEWAL OF APPROVAL
21 NCAC 58E .0205 DENIAL OR WITHDRAWAL OF
APPROVAL
21 NCAC 58E .0206 REQUEST FOR A VIDEO
RECORDING**

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A;
Eff. July 1, 1994;
Amended Eff. July 1, 2015; July 1, 2014; January 1, 2012;
January 1, 2008; April 1, 2004; July 1, 2003; September 1,
2002; July 1, 2000; July 1, 1996; July 1, 1995;
Repealed Eff. July 1, 2017.

**21 NCAC 58E .0301 PURPOSE AND APPLICABILITY
21 NCAC 58E .0302 ELECTIVE COURSE
COMPONENT
21 NCAC 58E .0303 APPLICATION FOR ORIGINAL
APPROVAL
21 NCAC 58E .0304 CRITERIA FOR ELECTIVE
COURSE APPROVAL
21 NCAC 58E .0305 ELECTIVE COURSE SUBJECT
MATTER
21 NCAC 58E .0306 ELECTIVE COURSE
INSTRUCTORS
21 NCAC 58E .0307 ELECTIVE COURSE CREDIT
HOURS
21 NCAC 58E .0308 REQUEST FOR A VIDEO
RECORDING
21 NCAC 58E .0309 STUDENT FEES FOR ELECTIVE
COURSES**

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A;
Eff. July 1, 1994;
Amended Eff. July 1, 2015; July 1, 2014; July 1, 2010; April 1,
2006; July 1, 2005; April 1, 2004; September 1, 2002; October
1, 2000; July 1, 2000; July 1, 1996; September 1, 1996; March
1, 1996; July 1, 1995;
Repealed Eff. July 1, 2017.

**21 NCAC 58E .0310 DISTANCE EDUCATION
COURSES**

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 1996;
Amended Eff. July 1, 2009; July 1, 2005; July 1, 2000;
Repealed Eff. July 1, 2017.

21 NCAC 58E .0401	PURPOSE AND APPLICABILITY
21 NCAC 58E .0402	SPONSOR ELIGIBILITY
21 NCAC 58E .0403	SPONSOR NAME
21 NCAC 58E .0404	ADVANCE APPROVAL
REQUIRED	
21 NCAC 58E .0405	CONTINUING EDUCATION
COORDINATOR	
21 NCAC 58E .0406	COURSE COMPLETION
REPORTING	

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A; Eff. July 1, 1994;
Amended Eff. April 1, 2006; July 1, 2005; September 1, 2002; October 1, 2000; July 1, 1996; July 1, 1995;
Repealed Eff. July 1, 2017.

21 NCAC 58E .0408	CHANGE IN SPONSOR OWNERSHIP
21 NCAC 58E .0409	CHANGES DURING APPROVAL PERIOD
21 NCAC 58E .0410	COURSE RECORDS
21 NCAC 58E .0411	RENEWAL OF COURSE AND SPONSOR APPROVAL
21 NCAC 58E .0412	DENIAL OR WITHDRAWAL OF APPROVAL

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A; 93A-6(a)(15); Eff. July 1, 1994;
Amended Eff. July 1, 2015; July 1, 2014; July 1, 2010; April 1, 2004; July 1, 2000; July 1, 1996;
Repealed Eff. July 1, 2017.

21 NCAC 58E .0501	PURPOSE AND APPLICABILITY
21 NCAC 58E .0502	SCHEDULING
21 NCAC 58E .0503	MINIMUM CLASS SIZE
21 NCAC 58E .0504	NOTICE OF SCHEDULED COURSES
21 NCAC 58E .0505	ADVERTISING; PROVIDING COURSE INFORMATION
21 NCAC 58E .0506	CLASSES OPEN TO ALL LICENSEES
21 NCAC 58E .0507	CLASSROOM FACILITIES
21 NCAC 58E .0508	STUDENT CHECK-IN
21 NCAC 58E .0509	INSTRUCTOR CONDUCT AND PERFORMANCE
21 NCAC 58E .0510	MONITORING ATTENDANCE
21 NCAC 58E .0511	STUDENT PARTICIPATION STANDARDS
21 NCAC 58E .0512	SOLICITATION OF STUDENTS
21 NCAC 58E .0513	CANCELLATION AND REFUND POLICIES
21 NCAC 58E .0514	COURSE INSPECTIONS BY COMMISSION REPRESENTATIVE

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-4A; Eff. July 1, 1994;

Amended Eff. July 1, 2015; January 1, 2012; July 1, 2010; July 1, 2009; April 1, 2004; July 1, 2001; October 1, 2000; July 1, 1996; July 1, 1995;
Repealed Eff. July 1, 2017.

21 NCAC 58E .0515 ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

History Note: Authority G.S. 93A-3(c); 93A-4A; Eff. July 1, 1995;
Amended Eff. July 1, 2000;
Repealed Eff. July 1, 2017.

21 NCAC 58G .0102 LOCATION

(a) The office of the North Carolina Real Estate Commission is located at 1313 Navaho Drive, Raleigh, North Carolina. The mailing address is Post Office Box 17100, Raleigh, North Carolina 27619-7100.
(b) Forms and information about the office may be obtained from the Commission's website at www.ncrec.gov.

History Note: Authority G.S. 93A-3(c); Eff. July 1, 2017.

21 NCAC 58G .0103 DEFINITIONS

The following definitions apply throughout this Chapter and to all forms prescribed pursuant to this Chapter:

- (1) "Commission" means the North Carolina Real Estate Commission.
- (2) "Commission's website" means www.ncrec.gov.
- (3) "Day" means calendar day unless the rule expressly states otherwise. The first day counted is the day following the act, event, or transaction that triggered the tolling of the designated time period.
- (4) "Fee" means a payment made to the Commission by a bank check, certified check, money order, debit card, credit card, or other electronic means and is nonrefundable once the payment has been processed.
- (5) "Firm" means a partnership, corporation, limited liability company, association, or other business entity, except for a sole proprietorship.
- (6) "Form" means an original form template provided by the Commission and completed by the submitting party.

History Note: Authority G.S. 93A-3(c); Eff. July 1, 2017.

21 NCAC 58H .0101 DEFINITIONS

The following definitions apply throughout this Subchapter and to all forms prescribed pursuant to this Chapter:

- (1) "Instructional hour" means 50 minutes of instruction and 10 minutes of break time.
- (2) "Distance education" means a method of instruction accomplished through the use of

media whereby teacher and student are separated by distance or time.

(3) "End-of-course evaluation" means a student evaluation of the course and the instructor's performance that shall be administered during the class period before administration of the end-of-course examination.

(4) "End-of-course examination" means an examination administered at the conclusion of a course that tests students' knowledge and mastery of all course subjects mandated by the Commission prescribed course syllabus.

(5) "Mid-course evaluation" means a student evaluation of the course and the instructor's performance given at the midpoint of the course.

(6) "Instructor development program" means courses of instruction designed to assist real estate instructors in the performance of Prelicensing, Postlicensing, or Continuing Education instructor duties or in the development of teaching skills.

(7) "License Examination Performance Record" means the percentage of an instructor's or school's students who, within 30 days of completing a Prelicensing course pursuant to 21 NCAC 58H .0210(a), take and pass the license examination, as defined in 21 NCAC 58A .0402, on their first attempt.

(8) "Postlicensing course" means any one of the courses comprising the 90 hour Postlicensing education program pursuant to G.S. 93A-4(a1) and 21 NCAC 58A .1902.

(9) "Prelicensing course" means a single course consisting of at least 75 hours of instruction on subjects prescribed by the Commission pursuant to G.S. 93A-4(a).

(10) "Private real estate school" means any real estate educational entity that is privately owned and operated by an individual, partnership, corporation, limited liability company, or association, and that conducts, for a profit or tuition charge, Prelicensing or Postlicensing courses.

(11) "Public real estate school" means any proprietary business or trade school licensed by the State Board of Community Colleges under G.S. 115D-90 or approved by the Board of Governors of the University of North Carolina that conducts Prelicensing or Postlicensing courses.

(12) "Schools" mean licensed private and approved public real estate schools.

(13) "Update Courses" mean the General Update Course and the Broker-in-Charge Update Course.

Eff. July 1, 2017.

21 NCAC 58H .0201 APPLICABILITY

This Section applies to all real estate schools offering approved Prelicensing and Postlicensing courses. Public real estate schools offering approved Prelicensing and Postlicensing courses shall be exempt from rules in this Section unless a Rule specifically requires compliance.

*History Note: Authority G.S. 93A-4; 93A-33;
Eff. July 1, 2017.*

21 NCAC 58H .0202 APPLICATION FOR ORIGINAL APPROVAL OF A PUBLIC REAL ESTATE SCHOOL

(a) Any entity seeking original approval as a public real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the:

- (1) school name;
- (2) school director name and contact information;
- (3) school address;
- (4) school telephone number;
- (5) school website address;
- (6) type of public institution;
- (7) Prelicensing or Postlicensing courses to be offered by the school;
- (8) Update courses to be offered by the school; and
- (9) a signed certification by the school director that courses shall be conducted in compliance with the rules of this Subchapter.

(b) Public real estate schools offering Prelicensing or Postlicensing courses pursuant to Paragraph (a) of this Rule shall be eligible to offer Update courses and continuing education courses.

(c) Approval shall extend only to the courses included in the application for school approval.

*History Note: Authority G.S. 93A-4;
Eff. July 1, 2017.*

21 NCAC 58H .0203 APPLICATION FOR ORIGINAL LICENSURE OF A PRIVATE REAL ESTATE SCHOOL

(a) Any entity seeking original licensure as a private real estate school to conduct Prelicensing or Postlicensing courses shall apply to the Commission on a form available on the Commission's website and shall set forth the following criteria in addition to the requirements in G.S. 93A-34(b):

- (1) the physical, website, and email addresses and telephone number of the principal office of the school;
- (2) the proposed school director's legal name, real estate license number, if any, email and mailing address, and telephone number;
- (3) the type of school ownership entity and the name, title, real estate license number, if any, mailing address, and ownership percentage of each individual or entity holding at least 10% ownership in the entity;

History Note: Authority G.S. 93A-4; 93A-4.1; 93A-32; 93A-33;

- (4) the North Carolina Secretary of State Identification Number;
- (5) the criminal history and history of occupational license disciplinary actions of individual school owner(s);
- (6) the physical address of each proposed school location;
- (7) the source of real estate examinations to be used for each course offered;
- (8) a copy of a current fire inspection report;
- (9) a copy of a criminal background check for the previous seven years on the proposed school director;
- (10) a signed Consent to Service of Process and Pleadings form available on the Commission's website, if a foreign entity;
- (11) the Prelicensing or Postlicensing courses to be offered by the school;
- (12) the Update courses to be offered by the school;
- (13) the signature and certification of the school owner(s).

(b) Private real estate school names shall contain the words "Real Estate" and other words identifying the entity as a school, such as "school," "academy," or "institute" that are distinguishable from other licensed private real estate schools and from continuing education course sponsors approved by the Commission.

(c) The school name shall be used in all school publications and advertising.

(d) Each school shall certify that its facilities and equipment are in compliance with all applicable local, state and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

(e) The original license application fee shall be two hundred dollars (\$200.00) for each proposed school location.

(f) The initial fee for a school to offer a Prelicensing or Postlicensing course at any of its locations during the licensing period shall be forty dollars (\$40.00) per Prelicensing or Postlicensing course.

(g) Private real estate schools offering Prelicensing or Postlicensing courses pursuant to Paragraph (a) of this Rule shall be eligible to offer Update courses and continuing education courses.

(h) If a school relocates any location during any licensing period, the school owner shall submit an original application for licensure of that location pursuant to this Rule.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0204 SCHOOL DIRECTOR

(a) All schools shall designate a school director, who shall

- (1) supervise all school operations related to the conduct of Prelicensing and Postlicensing courses;
- (2) ensure compliance with all statutory and rule requirements governing the licensing and operation of the school; and
- (3) act as the school's liaison to the Commission.

- (b) Public real estate schools shall designate one permanent employee to serve as the school director.
- (c) The school director for a private real estate school shall satisfy one of the following qualification standards:
 - (1) hold a baccalaureate or higher degree;
 - (2) have at least two years full-time experience within the past 10 years as an instructor or school administrator; or
 - (3) possess qualifications that the Commission finds to be equivalent to those described in Subparagraph (1) or (2) of this Rule, such as:
 - (A) a transcript demonstrating completion of 120 semester hours of education at an institution accredited by any college accrediting body recognized by the U. S. Department of Education;
 - (B) currently holding or having held within the past 15 years a military pay grade of an E-8 level, O-1 level, or higher; or
 - (C) a current Distinguished Real Estate Instructor (DREI) designation granted by the Real Estate Educators' Association.
- (d) The school director shall approve a guest lecturer prior to the guest lecturer teaching a course session. School directors shall ensure that all guest lecturers possess experience related to the particular subject area the guest lecturer is teaching. Guest lecturers may be utilized to teach collectively up to one-fourth of any Prelicensing or Postlicensing course.
- (e) The school director shall ensure that each instructor meets the requirements of Rule .0302 of this Subchapter.
- (f) The school director shall ensure each course utilizes a textbook currently approved by the Commission pursuant to Rule .0206 of this Section.
- (g) Schools shall notify the Commission within 10 days of any change in school director during the licensing period.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0205 PRIVATE REAL ESTATE SCHOOL BULLETIN

(a) A private real estate school shall publish a single bulletin addressing Prelicensing and Postlicensing courses offered. The same bulletin shall be used by all locations of a private real estate school.

(b) In addition to the information required by G.S. 93A-34(c)(5), a school's bulletin shall:

- (1) describe the purpose of Prelicensing and Postlicensing courses;
- (2) describe the school's policies and procedures;
- (3) include the name and address of the Commission, along with a statement that any complaints concerning the school or its instructors should be directed to the Commission;
- (4) include a statement that the school shall not discriminate in its admissions policy or practice

against any person on the basis of age, sex, race, color, national origin, familial status, handicap status, or religion;

(5) contain the following prescribed text: "NOTICE: Pursuant to North Carolina Real Estate Commission Rule 21 NCAC 58A .1904, the Commission may deny or withdraw credit for a Postlicensing course that a provisional broker begins taking while already enrolled in another Postlicensing course at the same school or a different school if participating in the two courses concurrently results in the provisional broker attending Postlicensing course sessions that total more than 30 instructional hours in any given seven-day period;" and

(6) include a signed certification that a student received a copy of the bulletin prior to payment of any portion of tuition or registration fee without the right to a full refund.

(c) A private real estate school may provide in its bulletin information about courses that are not approved by the Commission and shall state that such courses are not approved or sanctioned by the Commission.

(d) A private real estate school may not include in its bulletin any promotional information for a particular real estate broker, firm, franchise, or association, even if the entity being promoted owns the school.

(e) A private real estate school shall retain the signed certification required by Paragraph (b)(6) of this Rule pursuant to Rule .0212 of this Section. The certification shall include:

- (1) the student's name;
- (2) the date;
- (3) the title of the course(s) for which the student is enrolling;
- (4) the course schedule, including the beginning and end date, and meeting days and times;
- (5) the amount of tuition and other required fees being paid by the particular student;
- (6) a provision whereby the school certifies that the school's bulletin has been provided to the student and that the student acknowledges receipt of the bulletin;
- (7) any provisions needed to address special accommodations or arrangements applicable to a particular student; and
- (8) the signatures of both the student and a school official.

History Note: Authority G.S. 93A-4(a); 93A-4(d); 93A-33; 93A-34;

Eff. July 1, 2017.

21 NCAC 58H .0206 APPROVAL OF TEXTBOOKS

(a) A request for approval of a proposed textbook shall be submitted in writing to the Commission along with two copies of the proposed textbook. The criteria for approval shall be:

- (1) the textbook shall cover current North Carolina real estate related laws, rules, and practices;
- (2) the text shall be grammatically correct; and

(3) the nature and depth of subject matter coverage shall be consistent with the competency and instructional levels prescribed by the Commission for the course for which approval is sought.

(b) Approval of a textbook shall only apply to the edition reviewed by the Commission. A request for approval of a new or updated edition of a previously approved textbook shall be submitted in writing to the Commission, along with two copies of the proposed textbook, and shall include a list with specific page references of all significant changes from the previously approved edition.

(c) Approval of a textbook shall terminate four years after the initial approval or upon the approval of a new edition of a previously approved textbook.

History Note: Authority G.S. 93A-4; 93A-33; *Eff. July 1, 2017.*

21 NCAC 58H .0207 SCHOOL ADVERTISING AND RECRUITMENT ACTIVITIES

(a) Any school utilizing its license examination performance record for advertising or promotional purposes shall only use data that:

- (1) are limited to the annual examination performance data for the particular school and for all examination candidates in the State;
- (2) include the time period covered, the number of first-time candidates examined, and either the number or percentage of first-time candidates passing the examination; and
- (3) are presented in a manner that is not misleading or false.

(b) Schools shall not make or publish, by way of advertising or otherwise, any false or misleading statement regarding employment opportunities that may be available as a result of completion of a course offered by that school or acquisition of a real estate license.

(c) Schools shall not use endorsements or recommendations of any person or organization of advertising or otherwise unless such person or organization has consented in writing to the use of the endorsement or recommendation. In no case shall any person or organization be compensated for an endorsement or recommendation.

(d) Schools may offer and advertise courses in addition to those approved by the Commission pursuant to this Subchapter provided that references to such courses are not made or published in a manner that implies approval by the Commission.

(e) Instructional time and materials may be utilized for instructional purposes only.

(f) Schools shall not offer Postlicensing courses only for brokers affiliated with a particular real estate broker, firm, franchise, or association, even if the entity whose affiliated brokers would benefit from the closed course is the school owner.

History Note: Authority G.S. 93A-4(d); 93A-33; 93A-34; *Eff. July 1, 2017.*

21 NCAC 58H .0208 PRELICENSING AND POSTLICENSING COURSE SCHEDULING AND NOTIFICATION

(a) All Prelicensing and Postlicensing courses shall have fixed beginning and ending dates. Schools shall not utilize a scheduling system that allows students to enroll late for a course and then complete their course work in a subsequently scheduled course. Late enrollment shall be permitted only if the enrolling student can satisfy the minimum attendance requirement set forth in Rule .0210 of this Section.

(b) Schools shall notify the Commission of all scheduled Prelicensing and Postlicensing course offerings not later than 10 days prior to a scheduled course beginning date.

(c) The notice required by Paragraph (b) of this Rule shall include:

- (1) the school name;
- (2) the school code number; and
- (3) for each scheduled course:
 - (A) the name and course code number;
 - (B) the scheduled beginning and ending dates;
 - (C) the course meeting days and times, including any scheduled lunch breaks; and
 - (D) the name of the instructor and instructor number.

(d) If there is a change or cancellation within five days of the scheduled course date, then the school director shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) Class meetings shall not exceed seven and a half instructional hours per day and shall not exceed 30 instructional hours over any seven day period.

History Note: Authority G.S. 93A-4; Eff. July 1, 2017.

21 NCAC 58H .0209 PRELICENSING AND POSTLICENSING COURSE ENROLLMENT

(a) A school shall not enroll an individual in a Postlicensing course if the first day of the Postlicensing course occurs while the individual is enrolled in a Prelicensing course or if that individual has not passed the license examination.

(b) A school shall not enroll an individual in a Postlicensing course if the first day of the Postlicensing course occurs while the individual is taking another Postlicensing course at the same school or a different school if such enrollment results in the individual being in class for more than 30 instructional hours in any given seven day period.

History Note: Authority G.S. 93A-4(a1); 93A-33; Eff. July 1, 2017.

21 NCAC 58H .0210 PRELICENSING AND POSTLICENSING COURSE COMPLETION STANDARDS

(a) To complete a Prelicensing course, a student shall, at a minimum:

- (1) attend at least eighty percent of all scheduled credit hours for the course; and
- (2) obtain a grade of at least seventy-five percent on the end-of-course examination.

(b) To complete a Postlicensing course, a student shall, at a minimum:

- (1) attend at least ninety percent of all scheduled credit hours for the course; and
- (2) obtain a grade of at least seventy-five percent on the end-of-course examination.

(c) The end-of-course examination shall be completed in the classroom and proctored by the instructor or another school staff member. Students shall not use textbooks or notes on the end-of-course examination.

(d) Prelicensing end-of-course examinations may be provided by the Commission for use by a licensed or approved school. If the Commission does not provide such end-of-course examination, or if a school elects not to use a Commission-provided examination, the school shall use an examination that tests students' knowledge and mastery of the course subject matter. Upon the request of the Commission during an application or investigation, the school shall provide a copy of its end-of-course examination.

(e) Postlicensing end-of-course examinations shall be provided by the Commission for use by a licensed or approved school.

(f) A school may, within 30 days of the course ending date, allow a Prelicensing or Postlicensing course student opportunities to make-up a missed end-of-course examination or to retake a failed end-of-course examination without repeating the course. Postlicensing students shall be allowed at least one retake examination opportunity. Any make-up or repeat end-of-course examination shall consist of a different form of the examination than any previously administered in the student's course. If the examination used is not provided by the Commission, at least seventy-five percent of the questions shall be different from those previously included on any end-of-course examination used earlier in the student's course.

(g) Schools, school directors, and instructors shall take steps to protect the security and integrity of course examinations at all times. These steps shall include:

- (1) maintaining examinations and answer keys in a secure place, such as a locked area, accessible only to the instructor or school officials;
- (2) prohibiting students from retaining copies of examinations, answer sheets, and scratch paper containing notes or calculations, or any material that may jeopardize examination security;
- (3) monitoring students at all times when examinations are being administered; and
- (4) prohibiting students from reviewing examinations, answer sheets, scratch paper, or any material used during the examination after students have completed the examination.

(h) Any student who is found to have cheated in any manner on any course examination shall be dismissed from the course and shall not be awarded a passing grade for the course or any credit for partial completion of the course. The school shall report the cheating incident in writing to the Commission within 10 days.

History Note: Authority G.S. 93A-4; 93A-33;

Eff. July 1, 2017.

21 NCAC 58H .0211 PRELICENSING AND POSTLICENSING ROSTER REPORTING

(a) A school shall provide a course completion certificate to each student who completes a Prelicensing or Postlicensing course under Rule .0210 of this Section. Each course completion certificate shall identify the course, date of completion, student, and instructor. The certificate shall be signed by the school director.

(b) For each Prelicensing or Postlicensing course taught, a school shall submit a Roster Report electronically within 30 days following the course.

- (1) The Prelicensing Roster Report shall include:
 - (A) each student's legal name;
 - (B) each student's email address and telephone number;
 - (C) each student's unique identification number;
 - (D) the course completion date pursuant to Rule .0210 of this Section;
 - (E) the school's name and number;
 - (F) the course's number; and
 - (G) the instructor's name and number;
- (2) The Postlicensing Roster Report shall include:
 - (A) each student's legal name;
 - (B) each broker's license number;
 - (C) the course completion date;
 - (D) the school's name and number;
 - (E) the course's name and number; and
 - (F) the instructor's name and number.

(c) Schools shall electronically submit with the Postlicensing Roster Reports the per student fee prescribed by G.S. 93A-4(a2).

History Note: Authority G.S. 93A-4; 93A-33;

Eff. July 1, 2017.

21 NCAC 58H .0212 SCHOOL RECORDS

All school records shall be retained for three years by the school and be made available to the Commission during an investigation or application process. School records shall include:

- (1) enrollment and attendance records;
- (2) each student's end-of-course examination with grade and graded answer sheet;
- (3) a master copy of each end-of-course course examination with its answer key, course title, course dates, and name of the instructor;
- (4) all student evaluations pursuant to Rule .0213(a) of this Section;
- (5) all instructor evaluations pursuant to Rule .0213(c) of this Section;
- (6) class schedules;
- (7) advertisements;
- (8) bulletins, catalogues, and other official publications; and
- (9) statements of consent required by Rule .0207(c) of this Section.

History Note: Authority G.S. 93A-4; 93A-33;

Eff. July 1, 2017.

21 NCAC 58H .0213 EVALUATIONS OF INSTRUCTOR PERFORMANCE

(a) A school shall provide each student an opportunity to complete a mid-course evaluation and an end-of-course evaluation of the instructor in each Prelicensing course and to complete an end-of-course evaluation of the instructor in each Postlicensing course. Each student's evaluation shall be on a form provided by the Commission, include a section for the student's comments, and shall evaluate the instructor's:

- (1) knowledge of the subject matter;
- (2) teaching skills; and
- (3) classroom management.

(b) The school director shall submit a Summary Report electronically within 30 days after course completion pursuant to Rule .0210 of this Section. The Summary Report form shall require the school director to set forth:

- (1) the full name of the instructor being evaluated;
- (2) title of course;
- (3) the number of students who initially enrolled in the course;
- (4) the number of students who met all course requirements pursuant to Rule .0210 of this Section;
- (5) the number of students who met all course requirements except Rule .0210(a)(2) and (b)(2) of this Section;

(c) In addition to the student evaluations in Paragraph (a) of this Rule, school directors shall also ensure all school-affiliated instructors are observed at least once annually for a minimum of one hour of live uninterrupted instruction by either the school director or a Commission-approved Prelicensing or Postlicensing instructor present in the classroom. School directors who are also instructors may, upon written request to the Commission, be evaluated by a Commission monitor. The evaluation shall be based on the instructor's teaching abilities pursuant to Rule .0304 of this Subchapter. The instructor shall receive the written evaluation of his or her instructional performance within 30 days of observation.

History Note: Authority G.S. 93A-4; 93A-33;

Eff. July 1, 2017.

21 NCAC 58H .0214 EXPIRATION AND RENEWAL OF A SCHOOL APPROVAL OR LICENSE

(a) All Commission approvals and licenses issued to real estate schools shall expire annually on June 30 following issuance of approval or licensure.

(b) A school shall file an electronic application for renewal of its approval or license within 45 days immediately preceding expiration of approval or licensure on a form available on the Commission's website. The school renewal application form shall include:

- (1) the school name;
- (2) the school number;
- (3) the school director's name;
- (4) the school's mailing address, telephone number, and web address, if applicable;

- (5) all Commission approved courses offered by the school;
- (6) any change in the school's business entity;
- (7) court records of any conviction, guilty plea, or plea of no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction against the school owner(s) and school director since the last renewal;
- (8) records pertaining to any disciplinary action taken against the school owner(s) and school director by an occupational licensing board since the last renewal;
- (9) a copy of the current bulletin;
- (10) proof of bond as required in G.S. 93A-36;
- (11) proof of a current fire inspection; and
- (12) the school director's signature.

(c) The private school license renewal fee shall be one hundred dollars (\$100.00) for each school location.

(d) The renewal fee for a private real estate school to offer a Prelicensing or Postlicensing course at any of its locations during the licensed period shall be twenty-five dollars (\$25.00) per Prelicensing or Postlicensing course.

(e) If a school approval or license has expired, the school shall submit an application for original approval or licensure.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34(b); 93A-35(b); 93A-36;

Eff. July 1, 2017.

21 NCAC 58H .0215 DENIAL, WITHDRAWAL, OR TERMINATION OF SCHOOL APPROVAL OR LICENSE

(a) The Commission may deny or withdraw approval of any public real estate school or suspend, revoke, or deny renewal of the license of any private real estate school upon finding that:

- (1) any school official employed by the school has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (2) any school official found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (3) a school made any false statements or presented any false, incomplete, or incorrect information in connection with an application;
- (4) a school provided false, incomplete, or incorrect information in connection with any report the school is required to submit to the Commission;
- (5) a school presented to its students or prospective students false or misleading information relating to its instructional program, to the instructional programs of other institutions, or related to employment opportunities;
- (6) a school refused at any time to permit authorized representatives of the Commission to inspect the school or audit its courses;

- (7) a school director violated the rules of this Subchapter or was disciplined by the Commission under G.S. 93A-6;
- (8) a school obtained or used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;
- (9) a school compiled a license examination performance record for first-time examination candidates that is below sixty percent passing for two or more of the previous five annual reporting periods;
- (10) a school failed to provide to the Commission a written plan describing the changes the school made or intends to make in its instructional program including instructors, course materials, methods of student evaluation, and completion standards to improve the performance of the school's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following a school's attainment of a licensing examination record for first-time examination candidates that is below 60 percent passing for the previous annual reporting period;
- (11) a school provided the Commission a fee that was dishonored by a bank or returned for insufficient funds; or
- (12) a school refused or failed to comply with the provisions of this Subchapter.

(b) When ownership of a licensed private real estate school is transferred and the school ceases to operate as the licensed entity, the school license is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original private real estate school license for each location where the school will conduct courses as required by G.S. 93A-34 and Rule .0203 of this Section prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any school operations.

(c) If a licensed private real estate school transfers an aggregate of 50 percent or more of the ownership interest, the school shall notify the Commission in writing within 10 days of the transfer.

History Note: Authority G.S. 93A-4(d); 93A-34(c); 93A-35(c); 93A-38;

Eff. July 1, 2017.

21 NCAC 58H .0301 PRELICENSING, POSTLICENSING, AND UPDATE COURSE INSTRUCTOR APPROVAL

(a) Approval of an instructor to teach Prelicensing and Postlicensing courses shall authorize the instructor to teach courses only in conjunction with and at schools approved or licensed by the Commission pursuant to Rule .0202 or .0203 of this Subchapter to conduct such courses.

(b) An instructor approved to teach Prelicensing and Postlicensing courses may elect to also teach Update courses upon initial approval, renewal, or any time while holding such approval.

(c) Approved instructors may teach Update courses for any approved Update course sponsor pursuant to Rule .0402 of this Subchapter. An approved instructor may not independently conduct an Update course unless the instructor has also obtained approval as an Update course sponsor.

History Note: Authority G.S. 93A-4(d); 93A-33; 93A-34; Eff. July 1, 2017.

21 NCAC 58H .0302 APPLICATION AND CRITERIA FOR ORIGINAL PRELICENSING, POSTLICENSING, OR UPDATE COURSE INSTRUCTOR APPROVAL

(a) An individual seeking original instructor approval shall submit an application on a form available on the Commission's website that shall require the instructor applicant to indicate the course(s) for which he or she is seeking approval and set forth the instructor applicant's:

- (1) legal name, address, email address, and telephone number;
- (2) real estate license number and instructor number, if any, assigned by Commission;
- (3) criminal and occupational licensing history, including any disciplinary actions;
- (4) education background, including specific real estate education;
- (5) experience in the real estate business;
- (6) real estate teaching experience, if any;
- (7) a signed Consent to Service of Process and Pleadings for nonresident applicants; and
- (8) signature.

(b) An instructor applicant shall demonstrate that he or she possesses good reputation and character pursuant to G.S. 93A-34(c)(9) and has:

- (1) a North Carolina real estate broker license that is not on provisional status;
- (2) completed continuing education sufficient to activate a license under 21 NCAC 58A .1702;
- (3) completed 60 semester hours of college-level education at an institution accredited by any college accrediting body recognized by the U.S. Department of Education; and
- (4) within the previous seven years has either:
 - (A) two years full-time experience in real estate brokerage with at least one year in North Carolina;
 - (B) three years of instructor experience at a secondary or post-secondary level;
 - (C) real estate Prelicensing or Postlicensing instructor approval in another jurisdiction; or
 - (D) qualifications found to be equivalent by the Commission, including a current North Carolina law license and three years' full time experience in commercial or residential real estate

transactions or representation of real estate brokers or firms.

(c) Along with their application, an instructor applicant shall submit a digital video recording of themselves teaching a 50 minute block of a single topic in a Prelicensing, Postlicensing, or Update course that demonstrates the ability to teach the subject in a manner consistent with the course materials. The digital video recording shall comply with Rule .0305(c) of this Section.

(d) The digital video recording requirement described in Paragraph (c) of this Rule shall be waived by the Commission if the instructor applicant has a current:

- (1) approval as either a General Update Course, Prelicensing, or Postlicensing instructor; or
- (2) Distinguished Real Estate Instructor (DREI) designation that has been awarded to the instructor by the Real Estate Educators Association or an equivalent instructor certification.

(e) Prior to teaching any Prelicensing or Postlicensing course, an approved instructor shall take the Commission's New Pre/Postlicensing Instructor Seminar.

(f) Prior to teaching any Update course, an approved instructor shall take the Commission's annual Update Instructor Seminar for the current license period. The Update Instructor Seminar shall not be used to meet the requirement in Rule .0306(b)(4) of this Section.

History Note: Authority G.S. 93A-3(f); 93A-4; 93A-10; 93A-33; 93A-34;

Eff. July 1, 2017.

21 NCAC 58H .0303 DENIAL OR WITHDRAWAL OF INSTRUCTOR APPROVAL

The Commission may deny or withdraw approval of any instructor applicant or approved instructor upon finding that the instructor or instructor applicant:

- (1) has failed to meet the criteria for approval described in Rule .0302 of this Section or the criteria for renewal of approval described in Rule .0306 of this Section at the time of application or at any time during an approval period;
- (2) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for approval or renewal of approval or any report that is required to be submitted to the Commission;
- (3) has failed to submit to the Commission any report, course examination, or video recording required by these Rules;
- (4) has failed to demonstrate the ability to teach a Prelicensing, Postlicensing, or Update course in a manner consistent with the course materials;
- (5) taught a Prelicensing course and compiled a license examination performance record for first-time examination candidates that is below 60 percent passing for two or more of the previous five annual reporting periods;

(6) taught a Prelicensing course and failed to provide to the Commission a written plan describing the changes the instructor has made or intends to make in his or her instructional program to improve the performance of the instructor's students on the license examination within 30 days of the Commission's request during an investigation, application process, or following an instructor's attainment of a licensing examination record for first-time examination candidates that is below sixty percent passing for the previous annual reporting period;

(7) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;

(8) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;

(9) has obtained, used, or attempted to obtain or use, in any manner or form, North Carolina real estate license examination questions;

(10) has failed to take appropriate steps to protect the security of end-of-course examinations pursuant to Rule .0210(g) of this Subchapter;

(11) failed to take any corrective action set out in the plan described in Item (5) of this Rule or as otherwise requested by the Commission;

(12) engaged in any other improper, fraudulent, or dishonest conduct; or

(13) failed to comply with any other provisions of this Subchapter.

(B) sample forms and contracts;

(C) pictures;

(D) charts; and

(E) videos.

(5) utilize assessment tools, such as:

(A) in-class or homework assignments, and

(B) quizzes and midterm examinations for Prelicensing and Postlicensing courses.

(6) avoid criticism of any other person, agency, or organization;

(7) identify key concepts and correct student misconceptions; and

(8) maintain control of the class.

(b) Instructors teaching Prelicensing, Postlicensing, or Update courses shall interact with students either in person in a classroom setting or through an interactive telecommunication system, or comparable system, that permits continuous mutual audio and visual communication between the instructor and students. The school shall provide monitoring and technical support for the instructors or students.

(c) Instructors teaching Prelicensing or Postlicensing courses shall:

(1) safeguard and protect the security of course examinations;

(2) not allow students to review or retain copies of end-of-course examinations and any materials used during the examination; and

(3) only use guest lecturers that have been approved by the school director pursuant to Rule .0204(d) of this Section.

(d) Instructors shall not obtain, use, or attempt to obtain or use, in any manner or form, North Carolina real estate license examination questions.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;
Eff. July 1, 2017.

21 NCAC 58H .0304 INSTRUCTOR CONDUCT AND PERFORMANCE

(a) All instructors shall ensure that class sessions are conducted at the scheduled time and for the full amount of time that is scheduled or required. Instructors shall conduct courses in accordance with the Commission's rules, and any applicable course syllabi, instructor guide, or course plan. Instructors shall conduct classes demonstrating the ability to:

(1) state student learning objectives at the beginning of the course and present accurate and relevant information;

(2) communicate correct grammar and vocabulary;

(3) utilize a variety of instructional techniques that require students to analyze and apply course content, including teacher-centered approaches, such as lecture and demonstration, and student-centered approaches, such as lecture discussion, reading, group problem solving, case studies, and scenarios;

(4) utilize instructional aids, such as:

(A) whiteboards;

21 NCAC 58H .0305 DIGITAL VIDEO RECORDINGS

(a) Upon request of the Commission during an investigation, an approved instructor shall submit a digital video recording of the instructor teaching specified topics of a course, as identified by the Commission which the instructor is approved to teach.

(b) Upon the request of the Commission during an investigation, a continuing education sponsor shall submit a digital video recording depicting a particular Update Course instructor, as designated by the Commission, teaching the Update course.

(c) Any digital video recording submitted to the Commission shall:

(1) have been made within 12 months of the date of submission;

(2) be recorded either on a digital video disc (DVD), USB drive, or similar medium;

(3) be unedited;

(4) display a visible date and time stamp during the entire video recording;

(5) include a label identifying the instructor, the course title, subject being taught, student

materials used, and dates of the video instruction;

(6) have visual and sound quality to allow reviewers to see and hear the instructor; and

(7) show at least a portion of the students present in a live audience.

(d) The deadline for any digital video recording requested during an investigation shall be 30 days after the date of the next scheduled course, but no later than 120 days after the Commission's request.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;
Eff. July 1, 2017.

21 NCAC 58H .0306 RENEWAL AND EXPIRATION OF INSTRUCTOR APPROVAL

(a) Commission approval of instructors shall expire annually on June 30 following issuance of approval.

(b) Any approved instructor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The instructor renewal application shall set forth the instructor's:

(1) legal name, address, email address, and telephone number;

(2) real estate license number and instructor number assigned by Commission;

(3) any criminal convictions and occupational license disciplinary actions within the past year;

(4) proof of attendance since approval or last renewal of a real estate instructor educational program of at least six hours, such as the:

(A) Commission's Spring Educators Conference or New Instructor Seminar;

(B) NC Real Estate Educators Association's conference or instructor development workshop; or

(C) Real Estate Educators Association's conference or instructor development workshop.

(5) courses for which he or she is seeking approval as an instructor; and

(6) signature.

(c) In order to reinstate an instructor approval that has been expired for less than six months, the former instructor shall meet the requirements set forth in Paragraph (b) of this Rule.

(d) If an instructor approval has been expired for more than six months, the former instructor shall file an application for original approval pursuant to Rule .0302 of this Section.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;
Eff. July 1, 2017.

21 NCAC 58H .0401 APPLICABILITY

This Section shall apply to the application, renewal, and conduct of continuing education sponsors, continuing education elective courses, and Update Courses.

History Note: Authority G.S. 93A-4; 93A-33; 93A-34;

Eff. July 1, 2017.

21 NCAC 58H .0402 APPLICATION FOR ORIGINAL APPROVAL OF CONTINUING EDUCATION SPONSOR

(a) Only continuing education sponsors approved by the Commission shall be eligible to offer continuing education courses, including elective courses and Update Courses.

(b) Any entity seeking original approval to be a continuing education sponsor shall make application on a form available on the Commission's website that requires the applicant to set forth:

(1) the legal name of applicant and any assumed business name;

(2) the applicant's mailing address, telephone number, and email address;

(3) the legal name of the individual who will serve as the applicant's continuing education coordinator as defined in Rule .0403 of this Section;

(4) the applicant's form of business entity;

(5) the SOSID issued by the NC Secretary of State, if applicable;

(6) the legal name(s) of the sponsor's owner(s);

(7) a record of any criminal convictions for all individuals listed as owner(s), manager(s), or partner(s);

(8) a record of any discipline related to a professional license for all individuals listed as owner(s), manager(s), or partner(s); and

(9) the signature of the applicant.

(c) Any foreign or out-of-state entity or person applying for original approval shall submit a signed Consent to Service of Process and Pleadings form as required by G.S. 93A-10.

(d) The name of any course sponsor shall not be identical to the name of any other approved continuing education course sponsor or licensed private real estate school.

(e) Continuing education sponsors shall notify the Commission in writing within 10 days of any change in business name, ownership interest, continuing education coordinator, address, business telephone number, or email address.

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-10; 93A-34;
Eff. July 1, 2017.

21 NCAC 58H .0403 CONTINUING EDUCATION COORDINATOR

(a) Continuing education sponsors shall designate in writing to the Commission one person to serve as the continuing education coordinator. The continuing education coordinator shall serve as the official contact person for the sponsor and shall be responsible for:

(1) supervising the sponsor's continuing education courses;

(2) ensuring continuing education elective courses are taught by instructors complying with Rule .0407 of this Section;

(3) ensuring elective courses are taught according to the course materials approved by the Commission;

- (4) ensuring only approved instructors who have taken the Update Course Seminar for the current license period teach Update Courses;
- (5) ensuring students are furnished with the approved course materials pursuant to Rule .0406 of this Section;
- (6) signing course completion certificates;
- (7) submitting to the Commission all required fees, rosters, reports, and other information; and
- (8) submitting to the Commission the name and the instructor number of each elective course instructor within 10 days of employment.

(b) Each continuing education coordinator shall view the Commission's Continuing Education Coordinator video electronically within 30 days of initial designation and annually within 45 days immediately preceding expiration of sponsor approval.

History Note: Authority G.S. 93A-3; 93A-4.1;
Eff. July 1, 2017.

21 NCAC 58H .0404 RENEWAL OF SPONSOR APPROVAL

(a) Commission approval of all continuing education sponsors shall expire annually on June 30 following issuance of approval. (b) In order to ensure continuous sponsor approval, an approved sponsor shall file an electronic application for renewal of approval within the 45 days immediately preceding expiration of approval. The sponsor approval renewal application shall require the sponsor to set forth:

- (1) the legal name of sponsor and any assumed business name;
- (2) the sponsor number assigned by the Commission;
- (3) the sponsor's mailing address, telephone number, and email address;
- (4) the continuing education coordinator's legal name;
- (6) any criminal convictions or occupational licensure disciplinary action taken against any individual listed as owner(s) of the sponsor since last approval;
- (7) the name and course number of each continuing education elective course approved pursuant to Rule .0406 of this Section the applicant wishes to renew;
- (8) a certification that the continuing education coordinator has completed the Commission's video training pursuant to Rule .0403(c) of this Section;
- (9) a certification that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act; and
- (10) the signature of the sponsor.

(c) A continuing education sponsor also licensed or approved as a school may renew its continuing education sponsor approval on its school renewal form pursuant to Rule .0214 of this Subchapter.

- (d) Continuing education sponsors shall submit a fifty dollar (\$50.00) fee for each continuing education elective course the sponsor wishes to renew. No fee is required if the entity making application is a public school or is an agency of federal, state or local government.
- (f) Continuing education sponsors shall submit a one hundred dollar (\$100.00) materials fee if the sponsor wishes to renew approval to offer Update courses. No fee is required if the entity making application is a public real estate school or is an agency of federal, state, or local government.

History Note: Authority G.S. 93A-3; 93A-4.1;
Eff. July 1, 2017.

21 NCAC 58H .0405 DENIAL OR WITHDRAWAL OF SPONSOR APPROVAL

(a) The Commission may deny or withdraw approval of any continuing education sponsor upon finding that the sponsor or the continuing education coordinator in the employ of the sponsor:

- (1) made any false statements or presented any false, incomplete, or incorrect information in connection with an application for course or sponsor approval or renewal;
- (2) provided false, incomplete, or incorrect information in connection with any reports the continuing education sponsor is required to submit to the Commission;
- (3) provided the Commission a check for required fees that was dishonored by a bank or returned for insufficient funds;
- (4) has been convicted of, pleaded guilty to, or pleaded no contest to, a misdemeanor or felony violation of state or federal law by a court of competent jurisdiction;
- (5) has been found by a court or government agency of competent jurisdiction to have violated any state or federal regulation prohibiting discrimination;
- (6) has been disciplined by the Commission or any other occupational licensing agency in North Carolina or another jurisdiction;
- (7) collected money from brokers for a continuing education course but refused or failed to provide the promised instruction;
- (8) intentionally provided false, incomplete, or misleading information relating to real estate licensing, education matters, or the broker's education needs or license status;
- (9) failed to submit the CE Roster Reports as required by Rule .0412 of this Section;
- (10) failed to submit the per student fee as required by G.S. 93A-4.1(d); or
- (11) failed to comply with any other provision of this Subchapter.

(b) A broker shall be subject to discipline pursuant to G.S. 93A-6 if the broker engages in dishonest, fraudulent, or improper conduct in connection with the operations of a continuing education course sponsor if that broker:

- (1) has an ownership interest in the course sponsor;

- (2) is the designated continuing education coordinator for the course sponsor; or
- (3) is an instructor for the course sponsor.

(c) When ownership of an approved continuing education sponsor is transferred to a separate legal entity, the sponsor's approval is not transferable and shall terminate on the effective date of the transfer. All courses shall be completed by the effective date of the transfer. The transferring owner shall report course completion(s) to the Commission. The new entity shall obtain an original continuing education sponsor approval as required by Rule .0402 of this Subchapter prior to advertising courses, registering students, accepting tuition, conducting courses, or otherwise engaging in any sponsor operations.

(d) If an approved continuing education sponsor transfers an aggregate of 50 percent or more of the ownership interest, the sponsor shall notify the Commission in writing within 10 days of the transfer.

History Note: Authority G.S. 93A-3(c); 93A-4.1; 93A-6(a)(15);
Eff. July 1, 2017.

21 NCAC 58H .0406 APPROVAL AND RENEWAL OF ELECTIVE COURSE

(a) Prior to obtaining the Commission's written approval of a continuing education elective course, sponsors shall not offer, advertise, or otherwise represent that any continuing education elective course is, or may be, approved for continuing education credit in North Carolina.

(b) A sponsor seeking original approval of a proposed elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

- (1) title of the proposed elective course;
- (2) continuing education sponsor's legal name, address, and telephone number;
- (3) continuing education coordinator's legal name;
- (4) continuing education sponsor's sponsor code, if previously approved;
- (5) credit hours awarded for completing the course;
- (6) subject matter of the course;
- (7) identity of the course owner;
- (8) written permission of the course owner, if other than the applicant;
- (9) identity of prospective instructors; and
- (10) continuing education sponsor's signature.

(c) The application for original approval shall be accompanied by a copy of the course guide, which shall include course objectives, learning objectives for each topic, a timed outline, instructional methods and aids to be employed, and all materials that will be provided to students.

(d) If the elective course will be taught by any method other than live, in-person, in-class instruction, the applicant shall submit, along with the application for original approval:

- (1) a full copy of the course on the medium to be utilized for instruction;
- (2) a description of the method by which the sponsor will verify and record student attendance;

- (3) a list of hardware and software or other equipment necessary to both offer and complete the course;
- (4) the contact information for the technical support service for the course; and
- (5) a copy of the student orientation and course tutorial information.

(e) If the course will be taught by any method other than live, in-person, in-class instruction, the applicant shall, if requested, make available, at a date and time satisfactory to the Commission and at the applicant's expense, all hardware and software necessary for the Commission to review the submitted course. In the case of an Internet-based course, the Commission shall be provided access to the course at a date and time set by the Commission and shall not be charged any fee for such access.

(f) A sponsor seeking approval to offer an already approved elective course shall complete an application on a form available on the Commission's website that requires the applicant to set forth the:

- (1) title of the elective course;
- (2) applicant's legal name, address, and telephone number;
- (3) applicant's continuing education coordinator's legal name;
- (4) applicant's continuing education sponsor code, if previously approved;
- (5) identity of the course owner;
- (6) written permission of the course owner, if other than the applicant;
- (7) identity of prospective instructors; and
- (8) continuing education sponsor's signature.

(g) All applicants shall submit a fee of one hundred dollars (\$100.00) per elective course. No fee shall be required if the applicant is a public real estate school or is an agency of federal, state, or local government.

(h) Applications submitted pursuant to Paragraph (f) of this Rule shall be deemed approved ten business days after the Commission has received both a complete application and the required one hundred dollar (\$100.00) per course fee, unless the Commission notifies the applicant otherwise.

(i) Commission approval of all continuing education elective courses shall expire on June 30.

(j) In order to ensure continuous approval, a course sponsor shall include the name and course number of each previously approved continuing education elective it wishes to renew, along with the required fifty dollar (\$50.00) fee, in the sponsor approval renewal application pursuant to Rule .0404 of this Section.

(k) In order to obtain approval for an expired continuing education elective, a course sponsor shall submit an application for original approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1
Eff. July 1, 2017.

21 NCAC 58H .0407 CONTINUING EDUCATION ELECTIVE COURSE REQUIREMENTS

(a) Continuing education elective courses shall:

- (1) cover subject matter related to real estate brokerage practice and offer knowledge or

skills that will enable brokers to better serve real estate consumers and the public interest; consist of at least four hours of instruction; offer four continuing education credit hours; include handout materials for students that provide the information to be presented in the course; and

(5) be taught only by an instructor who possesses at least one of the following:

(A) a baccalaureate or higher degree in a field directly related to the subject matter of the course;

(B) three years' full-time work experience within the previous 10 years that is directly related to the subject matter of the course;

(C) three years' full-time experience within the previous 10 years teaching the subject matter of the course; or

(D) education or experience or both found by the Commission to be equivalent to one of the above standards.

(b) Sponsors shall obtain approval from the Commission before making any changes in the content of an elective course. Requests for approval of changes shall be in writing. However, changes in course content that are technical in nature do not require approval during the approval period, but shall be reported at the time the sponsor requests renewal of course approval.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 2017.

21 NCAC 58H .0408 COMMISSION CREATED UPDATE COURSES

(a) The Commission shall annually develop Update courses and shall produce instructor and student materials for use by sponsors.

(b) Only approved continuing education sponsors shall offer Update courses. Only approved instructors pursuant to Rule .0302 of this Subchapter shall instruct Update courses.

(c) Continuing education sponsors shall obtain written approval from the Commission prior to offering, advertising, or otherwise representing that any Update course is being offered for continuing education credit in North Carolina. (d) A continuing education sponsor seeking approval to offer Update courses shall submit an application form available on the Commission's website that shall require the applicant to set forth the:

(1) continuing education sponsor's legal name, address, and telephone number;

(2) continuing education coordinator's legal name;

(3) continuing education sponsor's number assigned by the Commission;

(4) name and instructor number of prospective instructors; and

(5) continuing education sponsor's signature.

(e) A continuing education sponsor seeking approval to offer a modified Update course pursuant to Paragraph (k) of this Rule shall also submit the written permission of each of the course owners, if other than the applicant.

(f) A licensed or approved school may obtain approval from the Commission to offer an Update Course by requesting it on the application or renewal of the school license or approval.

(g) The applicant shall submit a one hundred dollar (\$100.00) materials fee. No fee shall be required if the applicant is a public school or is an agency of federal, state, or local government.

(h) Sponsors shall use the Commission-developed course materials to conduct Update courses. Sponsors shall provide a copy of the course materials to each broker taking an Update course.

(i) Commission approval to offer Update courses shall expire annually on June 30 following issuance of approval. Sponsors shall apply for renewal of approval to offer Update courses each year along with the renewal of sponsor approval required in Rule .0404 of this Section.

(j) All Update course materials developed by the Commission are the sole property of the Commission and are subject to the protection of federal copyright laws. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permissible by law.

(k) With advance approval from the Commission, course sponsors and approved instructors may make modifications to the Update course when the Update course is being promoted to and conducted for a group of brokers that specialize in a particular area of real estate brokerage. Such modifications shall relate to the same general subject matter addressed in the prescribed Update course and the Update course as modified shall achieve the same educational objectives as the unmodified Update course. Where certain subject matter addressed in the prescribed Update course is not directly applicable to the group of brokers who specialize in the particular area of real estate brokerage being targeted, different subject matter and education objectives may be substituted with the prior written consent of the Commission. All modified Update course materials shall be the joint property of the Commission and the course sponsor or approved instructor approved to make such modifications, or as otherwise determined by written agreement. Violation of the Commission's copyright with regard to these materials shall be grounds for disciplinary action or other action as permitted by law.

History Note: Authority G.S. 93A-3; 93A-4.1;
Eff. July 1, 2017.

21 NCAC 58H .0409 RECORDS AND COMMISSION REVIEW

(a) All continuing education sponsors shall retain on file for three years records of student registration and attendance for each session of a continuing education course that is conducted and shall make such records available to the Commission upon request during an investigation.

(b) Continuing education sponsors shall admit any Commission authorized representative to monitor any continuing education class without prior notice. Such representatives shall not be required to register or pay any fee and shall not be reported as having completed the course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 2017.

21 NCAC 58H .0410 CONTINUING EDUCATION

COURSE SCHEDULING AND NOTIFICATION

(a) All continuing education courses shall be scheduled and conducted in a manner that limits class sessions to a maximum of eight instructional hours in any given day. The maximum permissible class session without a break shall be 90 minutes. Courses scheduled for more than four instructional hours in any given day shall include a meal break of at least one hour.

(b) Continuing education sponsors shall not offer, conduct, or allow a student to complete any course and offer continuing education credit between June 11 and June 30, inclusive.

(c) Sponsors shall provide the Commission written notice of all scheduled course offerings at least 10 days prior to the scheduled course date. The notice shall include:

- (1) the sponsor name;
- (2) the sponsor number assigned by the Commission;
- (3) the legal name and instructor number of the course instructor;
- (4) the course number;
- (5) the scheduled course date and start time; and
- (6) the course location.

(d) Continuing education sponsors shall notify the Commission of any schedule changes or course cancellations at least five days prior to the original scheduled course date. If a change or cancellation occurs within five days of the scheduled course date, then the continuing education sponsor shall provide notice to the Commission within 24 hours of the change or cancellation.

(e) The sponsor of any distance education course shall require students to complete the course within 30 days of the date of registration or the date the student is provided the course materials and permitted to begin work, whichever is the later date. The sponsor shall not offer, conduct, or allow a student to complete any course for continuing education credit between June 11 and June 30, inclusive. The sponsor shall advise all students registering for a distance education course, prior to accepting payment for any course, of the deadlines for course completion.

(f) Each sponsor shall certify that its facilities and equipment are in compliance with all applicable local, state, and federal laws and regulations regarding health, safety, and welfare, including the Americans with Disabilities Act.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0411 CONTINUING EDUCATION

COURSE ATTENDANCE

(a) Continuing education sponsors shall require each student who is a licensed broker to provide his or her name and license number at the initial check in for a class session.

(b) A student shall not be issued a Course Completion Certificate, and shall not be reported to the Commission as having completed a course unless the student satisfies the attendance requirement in 21 NCAC 58A .1705.

(c) Sponsors and instructors shall not make any exceptions to this Rule.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0412 CONTINUING EDUCATION

ROSTER REPORTS AND CERTIFICATES

(a) At the conclusion of any continuing education course, elective or Update, the sponsor shall submit to the Commission a CE Roster Report verifying each broker's completion of the course pursuant to Rule .0411 of this Section. The CE Roster Report shall contain the:

- (1) sponsor's name;
- (2) sponsor's number assigned by the Commission;
- (3) course instructor's name and number;
- (4) course's name and number;
- (5) course completion date; and
- (6) name and license number of each student who completed the course.

(b) Sponsors shall submit the CE Roster Report electronically within seven calendar days following the end of any course, but in no case later than June 15.

(c) Sponsors shall submit the ten dollar (\$10.00) per student fee required by G.S. 93A-4.1(d), along with the CE Roster Report.

(d) Sponsors shall provide a course completion certificate to each student who completes an approved continuing education course pursuant to Rule .0411 of this Section. Sponsors shall provide a printed or electronic certificate within 15 days following the course, but in no case later than June 15, for any course completed prior to that date.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0413 CONTINUING EDUCATION

COURSE COST, CANCELLATION, AND REFUNDS

(a) Sponsors shall establish an all-inclusive cost to be charged to students taking any continuing education course. No separate or additional costs shall be charged to students.

(b) Sponsors shall establish written course cancellation and refund policies. In the event a sponsor cancels a scheduled course, registered students shall be notified within 24 hours. Sponsors shall refund all prepaid payments received from registered students within 30 days of the date of cancellation, or with the student's written permission apply the refund toward another course.

History Note: Authority G.S. 93A-3(c); 93A-4.1;

Eff. July 1, 2017.

21 NCAC 58H .0414 ADVERTISING

(a) Sponsors shall not utilize advertising that is false or misleading.

(b) All course advertisement and promotional materials shall specify the number of continuing education credit hours to be awarded by the Commission for the course.

(c) All continuing education course promotional materials shall describe the course costs, the cancellation policy, and refund policies.

(d) Sponsors shall not use endorsements or recommendations of any person or organization, in advertising or otherwise, unless the person or organization:

- (1) has consented in writing to the use of the endorsement or recommendation; and
- (2) is not compensated for such use.

- (2) Human Resources and filed with the Office of State Human Resources as a public record; and

*History Note: Authority G.S. 93A-3(c); 93A-4.1;
Eff. July 1, 2017.*

TITLE 25 - OFFICE OF STATE HUMAN RESOURCES

25 NCAC 01C .0402 PERMANENT AND TIME-LIMITED APPOINTMENT

(a) An appointment to an established position shall be a permanent appointment if:

- (1) the requirements of the probationary period have been satisfied in accordance with G.S. 126-1.1, or
- (2) a time-limited appointment extends beyond three years of continuous employment.

(b) An appointment to an established position shall be a time-limited appointment if it is an appointment to:

- (1) a permanent position that is vacant due to the incumbent's leave of absence and the replacement employee's services will be needed for a period of one year or less, or
- (2) a time-limited position. If an employee is retained in a time-limited position beyond three years, the employee shall be designated as having a permanent appointment.

*History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. October 1, 2004; August 1, 1995; January 1, 1989; June 1, 1983; July 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;
Amended Eff. April 1, 2017; April 1, 2015.*

25 NCAC 01C .1004 REDUCTION IN FORCE

(a) A State government agency may separate an employee whenever it is necessary due to shortage of funds or work, abolishment of a position, or other material change in duties or organization. Retention of employees in classes affected shall be based on systematic consideration of all the following factors: type of appointment, relative efficiency, actual or potential adverse impact on the diversity of the workforce, and length of service. No temporary or probationary State employee as defined in G.S. 126-1.1 shall be retained where an employee with a permanent appointment shall be separated in the same or related class.

(b) Agency Responsibilities:

- (1) Each agency shall develop written guidelines for reduction in force that meets its particular needs with potential reductions being considered on a fair and systematic basis in accordance with factors listed in Paragraph (a) of this Rule. Each agency's guidelines shall be reviewed and approved by the Office of State

Human Resources and filed with the Office of State Human Resources as a public record; and The employing agency shall notify the employee in writing of separation as soon as possible and in any case not less than 30 calendar days prior to the effective date of separation. The written notification shall include the reasons for the reduction in force, expected date of separation, the employee's eligibility for priority reemployment consideration, applicable appeal rights, and other benefits described in the agency's reduction in force guidelines.

(c) Appeals: An employee may appeal the reduction in force separation in accordance with 25 NCAC 01H .0901.

(d) The agency shall analyze any application of its reduction in force guidelines to determine its impact on equal employment opportunity in accordance with the Equal Employment Opportunities Commission's (EEOC) Uniform Guidelines on Employee Selection Procedures in the code of federal regulations at 29 C.F.R. part 1607, section 6A, which is hereby incorporated by reference including any subsequent amendments and editions. These guidelines are available for free on the EEOC website at <http://www.eeoc.gov/laws/regulations/index.cfm>.

(e) Severance salary continuation shall be administered in accordance with 25 NCAC 01D .2700.

*History Note: Authority G.S. 126-4(2);
Eff. February 1, 1976;
Amended Eff. May 1, 1980; January 1, 1980;
Emergency Amendment (a) Eff. March 16, 1981 for a Period of 77 Days to Expire on June 1, 1981;
Emergency Amendment (a) Made Permanent with Change Eff. April 8, 1981;
Amended Eff. December 1, 1995; March 1, 1994; November 1, 1990; March 1, 1987;
Recodified from 25 NCAC 01D .0504 Eff. December 29, 2003;
Amended Eff. October 1, 2009; March 1, 2005;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 28, 2014;
Amended Eff. April 1, 2017; April 1, 2015.*

25 NCAC 01D .0101 COMPENSATION PLAN

The State Human Resources Commission shall maintain a compensation plan by providing a salary rate structure or structures adequate to appropriately compensate all positions subject to the State Human Resources Act. This structure or structures may be revised in response to labor market trends and to legislative actions affecting salaries; provided that such action is dependent on the availability of funds. "Appropriate compensation" shall mean compensation that encourages exceptional performance and maintains labor market competitiveness within the limits of financial resources.

*History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. January 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;*

Amended Eff. April 1, 2017.

25 NCAC 01D .0102 SALARY STRUCTURES

(a) The salary structures in the compensation plan maintained pursuant to Rule .0101 of this Section shall include all positions subject to the State Human Resources Act. Each such position shall be assigned to a pay grade with an associated salary range based on similar employment in the defined labor market. Each pay grade shall be assigned a minimum, midpoint, and maximum salary rate that is competitive with rates in the external labor market, consistent with the state's ability to pay and the hierarchy within state government employment. The minimum and maximum salary rates shall be the lowest and highest salary rates paid for a job assigned to that pay grade.

(b) Based on labor market demands, salary rates for some classifications may be approved above the standard rates. When a higher salary range (i.e., both the minimums and maximums are raised) is needed to recruit employees to certain areas of the state, the higher range(s) will be known as geographic differentials. When only the entry rates (and not the maximums) need to be higher, the higher rates will be known as special entry rates. Special entry rates may be approved on a geographic basis also.

(c) When geographic differentials are in effect, all salary administration policies are applied as if the classification were at the higher grade. Provisions for applying special entry rates are included in each policy.

History Note: Authority G.S. 126-4;

Eff. February 1, 1976;

Amended Eff. January 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0105 PAY STATUS

(a) An employee shall be deemed to be in pay status when working, when on paid leave, when exhausting vacation or sick leave, or when on workers' compensation leave. Lump sum payment of vacation leave upon separation shall not constitute paid leave status.

(b) An employee shall not be deemed to be in pay status after the last day of work if separated because of resignation, dismissal, death, retirement, reduction in force, or in accordance with any rule.

History Note: Authority G.S. 126-4;

Eff. February 1, 1976;

Amended Eff. October 1, 1983; July 1, 1983;

Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;

Amended Eff. March 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0112 TOTAL STATE SERVICE DEFINED

(a) Total state service shall mean the time of full-time or part-time (half-time or over) employment of an employee with a

permanent, probationary, or time-limited appointment, whether subject to or exempt from the State Human Resources Act. If an employee is in pay status, on authorized military leave in accordance with 25 NCAC 01E .0800, or on workers' compensation leave for at least one-half of the regularly scheduled workdays and holidays in a pay period, credit toward total state service shall be given for the entire pay period.

(b) If an employee's work schedule is less than 12 months and the employee works all the months scheduled, such as a school year, credit toward total state service shall be given for the full year; however, if the employee works less than the scheduled time, credit toward total state service shall be given on a month-for-month basis for the actual months worked.

(c) Credit toward total state service shall be given for:

- (1) Employment with other governmental units which are now North Carolina State agencies, such as county highway maintenance forces, War Manpower Commission, and judicial system;
- (2) Employment with the North Carolina county agricultural extension service;
- (3) Employment with the Community College system and the public school system of North Carolina;
- (4) Employment with a local mental health, public health, social services, or emergency management agency in North Carolina if such employment is subject to the State Human Resources Act; and
- (5) Employment with the General Assembly of North Carolina, except for participants in the Legislative Intern Program and pages, including all of the time, both permanent and temporary, of the employees and the full legislative terms of the members.

History Note: Authority G.S. 126-4(5),(10);

Eff. February 1, 1976;

Amended Eff. July 1, 1983;

Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire June 29, 1989;

Amended Eff. August 1, 1995; July 1, 1989; March 1, 1989; Recodified from 25 NCAC 01D .1204(g) Eff. December 29, 2003;

Amended Eff. August 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0114 BREAK IN SERVICE

A break in service shall be deemed to occur when an employee is not in pay status, as defined in 25 NCAC 01D .0105, for more than 31 calendar days. Periods of leave without pay, as defined in 25 NCAC 01E .1100, shall not constitute a break in service.

History Note: Authority G.S. 126-4;

Eff. February 1, 1976;

Temporary Amendment Eff. January 1, 1989 for a Period of 180 Days to Expire on June 29, 1989;

Amended Eff. March 1, 1989;

Recodified from 25 NCAC 01D .1003 Eff. December 29, 2003;

Pursuant to G.S. 150B-21.3A, rule is necessary without

substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0201 INITIAL EMPLOYMENT

(a) A new hire is the initial employment of an individual to a position in State government. A new hire—shall possess—the minimum-qualifications for the position, or their equivalent, as set forth in the class specification. A new hire—shall begin work on any scheduled workday in a pay period. When the first day of a pay period does not fall on a workday and the new hire begins work on the first workday of a pay period, the date to begin work shall be shown as the first day of the pay period.

(b) An employee entering into state service in a permanent or time-limited position shall be given a probationary appointment in accordance with G.S. 126-1.1. The probationary appointment period shall serve as an extension of the selection process to determine whether the person meets satisfactory performance standards for the work for which employed. The employee shall earn all the benefits of an employee with a permanent appointment during this probationary period.

(c) The conditions of the probationary appointment shall be conveyed to the applicant prior to appointment. During the probationary period, the supervisor shall work with the employee in coaching and assisting the employee to achieve a satisfactory performance level; progress of the employee shall be reviewed during documented feedback discussions between the employee and the supervisor in accordance with 25 NCAC 01O .0207.

(d) Following the probationary period, the employee shall be given a permanent appointment when the supervisor, in consultation with other appropriate administrators, determines the employee's performance indicated capability to become a satisfactory performer and merits retention in the position. If the employee's performance indicates that the employee is not suited for the position and does not meet acceptable performance standards, the employee shall be separated from that position. Employees may be separated during a probationary appointment for causes related to performance of duties or unacceptable personal conduct.

History Note: Authority G.S. 126-1.1; 126-4; 126-34.01;

126-34.02;

Eff. February 1, 1976;

Amended Eff. August 1, 1995; December 1, 1988; January 1, 1979; December 1, 1978;

Temporary Amendment Eff. May 23, 2014;

Amended Eff. April 1, 2015;

Readopted Eff. April 1, 2017.

25 NCAC 01D .0301 PROMOTION

(a) Promotion is an advancement from one position to another with a higher pay grade as described in 25 NCAC 01D .0102, within the same pay plan, or an advancement from one position to another with a higher market rate in a different pay plan. For a promotion, an employee shall possess at least the minimum qualifications for the position, or their equivalent, as set forth in

the class specification. "Market rate" means the average market value for a particular job.

(b) When it is practical and feasible, a vacancy shall be filled from among eligible employees; a vacancy shall be filled by an applying employee if required by 25 NCAC 01H .0801.

History Note: Authority G.S. 126-4; 126-7.1;

Eff. February 1, 1976;

Amended Eff. December 1, 1993; July 1, 1989;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0401 DEMOTION AND REASSIGNMENT

(a) Demotion shall mean an assignment to a position with a lower pay grade or a salary reduction in an employee's current position, caused by unsatisfactory performance or a disciplinary action in accordance with 25 NCAC 01J .0604. A career state employee, as defined in G.S. 126-1.1, shall have the right to appeal a demotion through their agency's internal grievance procedure.

(b) Reassignment shall mean an assignment to a position with a lower pay grade within the same pay plan or a lower market rate, as defined in 25 NCAC 01D .0301, if assigned to a different pay plan, resulting from a mutual agreement between the employee and employer. A reassignment shall not be deemed the result of disciplinary action.

History Note: Authority G.S. 126-4;

Eff. February 1, 1976;

Amended Eff. December 1, 1995; March 1, 1994;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0608 REALLOCATION

Reallocation shall mean the reclassification of a position that may warrant a new job title and job description. Reallocation of a position shall be documented through data collection and analysis approved by the State Human Resources Director or designee if there is an approved delegation of authority in accordance with 25 NCAC 01A .0106.

History Note: Authority G.S. 126-4;

Eff. January 1, 1990;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;

Amended Eff. April 1, 2017.

25 NCAC 01D .0901 TRANSFER

A transfer shall mean the movement of an employee between positions having the same pay grade within the same pay plan or movement to a different pay plan with the same market rate, as defined in 25 NCAC 01D .0301, without a break in service as defined in 25 NCAC 01D .0114.

History Note: Authority G.S. 126-4;

Eff. February 1, 1976;

*Amended Eff. January 1, 1990; November 1, 1988; December 1, 1985; December 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;
Amended Eff. April 1, 2017.*

25 NCAC 01D .1001 REINSTATEMENT

Reinstatement shall mean the return to state employment from an extended leave of absence or after a break in service as defined in 25 NCAC 01D .0114 from a state agency. Employees who are reinstated shall meet the minimum qualifications, or their equivalent, as set forth in the class specification of the position to which they are reinstated. If reinstatement is from leave without pay as defined in 25 NCAC 01E .1100, the employee shall be automatically qualified provided that employment is in the same classification or in a lower classification in the same field of work.

*History Note: Authority G.S. 126-4;
Eff. February 1, 1976;
Amended Eff. December 1, 1995; August 1, 1995; March 1, 1992; October 1, 1978;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 20, 2015;
Amended Eff. April 1, 2017.*

25 NCAC 01D .2701 SEVERANCE SALARY CONTINUATION POLICY

In accordance with G.S. 126-8.5, severance salary continuation shall be paid to eligible employees as defined in 25 NCAC 01D .2702 in accordance with the rules in this Section. Severance pay shall be subject to available funding and approval by the Office of State Budget and Management.

*History Note: Authority G.S. 126-4(10); 126-8.5;
Eff. October 1, 1985;
Amended Eff. October 1, 1995; September 1, 1991; November 1, 1990; November 1, 1988;
Recodified from 25 NCAC 01D .0509 Eff. December 29, 2003;
Amended Eff. February 1, 2016; March 1, 2009.
Readopted Eff. April 1, 2017.*

25 NCAC 01D .2702 SEVERANCE SALARY CONTINUATION ELIGIBILITY

(a) The following type of employee who has been reduced in force and who does not obtain employment in another position in State government or any other position that is funded in whole or in part by the State by the effective date of the separation shall be eligible for severance salary continuation:

- (1) full-time and part-time (half-time or more) permanent employees;
- (2) employees in trainee classifications with 12 or more months of continuous State service;
- (3) time-limited employees with 36 or more months of continuous State service; and
- (4) employees in exempt policymaking or exempt managerial positions as defined in G.S. 126-5(b) are eligible for severance salary continuation if the position is abolished as result of a reduction in force.

- (b) Time-limited employees with less than 36 continuous months of service, probationary, and temporary employees shall not be eligible for severance salary continuation.
- (c) An employee who is separated or who has received written notification of separation due to reduction in force, and who applies for or begins receiving retirement benefits based on early retirement, service retirement, long term disability, or a discontinued service retirement as provided by G.S. 126-8.5, shall not be eligible for severance salary continuation. An employee who is eligible for early or service retirement may elect to delay retirement and receive severance salary continuation.
- (d) An employee who is reemployed from any retired status with the State and who is subsequently terminated as a result of reduction in force shall be eligible for severance salary continuation if the employee meets the eligibility requirements set forth in Paragraph (a) of this Rule.
- (e) An employee who is receiving workers' compensation or short-term disability payments is eligible for severance salary continuation if the employee meets the eligibility requirements set forth in Paragraph (a) of the Rule.
- (f) An employee on leave with or without pay shall be separated on the effective date of the reduction in force and shall be eligible to receive severance salary continuation if the employee meets the eligibility requirements set forth in Paragraph (a) of this Rule.

*History Note: Authority G.S. 126-4(10); 126-8.5;
Eff. February 1, 2016;
Amended Eff. April 1, 2017.*

25 NCAC 01O .0108 PERFORMANCE MANAGEMENT COVERED EMPLOYEES

(a) The rules in this Subchapter shall apply to the following:

- (1) probationary, time-limited, and permanent employees;
- (2) employees appointed to exempt policy-making positions, exempt managerial positions, confidential secretary, confidential assistant, and all chief deputy positions; and
- (3) employees in trainee classifications.

(b) The rules in this Subchapter shall not apply to temporary employees.

*History Note: Authority G.S. 126-4;
Eff. April 1, 2016;
Amended Eff. April 1, 2017.*

TITLE 26 - OFFICE OF ADMINISTRATIVE HEARINGS

26 NCAC 03 .0120 RIGHTS AND RESPONSIBILITIES OF PARTIES

(a) A party shall have all evidence to be presented, both oral and written, available on the date for hearing. In cases when the hearing time is expected to exceed one day, the parties shall be prepared to present their evidence at the date and time ordered by the administrative law judge or agreed upon at a prehearing conference.

(b) The administrative law judge shall send copies of all orders or decisions to all parties simultaneously. Any party sending a

letter, exhibit, brief, memorandum, or other document to the administrative law judge shall simultaneously send a copy to all other parties.

(c) All parties have the continuing responsibility to notify the Office of Administrative Hearings of their current address and telephone number.

(d) A party may represent himself or herself or be represented by an attorney. If a party has notified other parties of that party's representation by an attorney, all communications shall be directed to that attorney.

(e) With prior notice to the administrative law judge, any person may offer testimony or other evidence relevant to the case. Any nonparty offering testimony or other evidence may be questioned by parties to the case and by the administrative law judge.

(f) Prior to issuing a decision, the administrative law judge may order any party to submit proposed findings of fact and written arguments.

(g) The Administrative Law Judge may allow remote participation via audio or video conference by participant(s) subject to available services at the hearing location. Requests for remote participation shall be made at least seven days in advance and are subject to equipment, staff, and scheduling availability.

(h) The administrative law judge shall not proceed to consideration of dispositive motions or a hearing on the merits in a contested case if an unrepresented party has notified the administrative law judge and the opposing party that the unrepresented party is seeking pro bono or reduced fee legal assistance, unless the administrative law judge has determined that acquisition of such legal assistance by the unrepresented party is improbable based on the circumstances, such as the failure of the unrepresented party to procure legal assistance after multiple attempts.

History Note: Authority G.S. 7A-751(a); 150B-25; 150B-33; 150B-34;

Eff. August 1, 1986;

Amended Eff. October 1, 1991; April 1, 1990; November 1, 1987;

Recodified from Rule .0119 Eff. August 1, 2000;

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

Pursuant to G.S. 150B-33(b)(9), Administrative Law Judge Augustus B. Elkins, II declared Rule 26 NCAC 03 .0120(d) void as applied in Abundant Life Child Care Center, Tiffany D. Monroe v. Division of Child Development, June Locklear, Brenda Faircloth (08 DHR 2954);

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;

Amended Eff. April 1, 2017.

26 NCAC 03 .0502 GENERAL

(a) The Office of Administrative Hearings shall permit documents filed and served in a contested case to be filed and served electronically by means of the Electronic Filing Service Provider. All attorneys, mediators, and other parties using e-OAH shall register to use the system through a link on the OAH website at www.ncoah.com. All e-OAH users shall keep current their electronic mail address in e-OAH. When all attorneys and unrepresented parties to a contested case are registered in e-OAH, all documents filed and served in that contested case shall be filed

and served electronically by means of the Electronic Filing Service Provider.

(b) In contested cases filed in e-OAH, registration as an e-OAH user constitutes consent to electronic service and receipt of contested case documents, including a notice of hearing given by OAH, by means of the Electronic Filing Service Provider.

(c) An e-OAH user shall be responsible for the readability of any document filed or served electronically by that user. Within five business days of receipt of an unreadable document filed or served electronically, the receiving party shall notify the sending party of the unreadability of the document.

(d) Pleadings and other documents filed or served electronically shall contain the electronic signature of the attorney, mediator, or party who prepared the document and the preparer's name, mailing address, electronic mail address, and telephone number. Documents prepared by an attorney shall have the attorney's North Carolina State Bar number. An attorney registered as an e-OAH user in a non-Medicaid contested case shall electronically file a notice of appearance in that contested case. An attorney's electronic signature to a petition for a contested case filed electronically shall be that attorney's notice of appearance in that contested case.

(e) Documents filed in e-OAH are filed when received by the chief hearings clerk of the Office of Administrative Hearings. Upon completion of filing, the clerk shall send the e-OAH user a confirmation receipt that includes the date and time of filing which shall be proof of filing.

(f) Documents filed electronically after 5 pm shall be deemed filed at 8 am the following business day.

(g) Documents filed in a contested case by an e-OAH user shall be filed electronically by means of the Electronic Filing Service Provider, shall be served electronically by means of the Electronic Filing Service Provider on all other attorneys or other parties registered in e-OAH in that contested case, and shall include a certificate of service.

(h) Electronic service shall be treated the same as service by mail for the purpose of adding three days to the prescribed period to respond under Rule 6(e) of the Rules of Civil Procedure as contained in G.S. 1A-1.

(i) A subpoena issued in a contested case by the chief hearings clerk of the Office of Administrative Hearings shall be signed electronically by the clerk.

(j) In contested cases filed electronically, the applicable filing fee shall be:

(1) forwarded by first class mail or overnight express mail contemporaneously with the electronic filing;

(2) paid personally to the chief hearings clerk of the Office of Administrative Hearings within five business days of the filing; or

(3) paid by electronic funds transfer.

(k) If e-OAH experiences technical failure that prevents the Office of Administrative Hearings from receiving filings in e-OAH in accordance with the Rules in this Section, either continuously or intermittently over the course of any period of time that, after 12:00 noon on such day, amounts to more than one hour, filings due that day that were not filed due to technical failure shall become due the next business day. Such delayed filings shall be deemed timely filed if accompanied by a

certification attesting to the e-OAH user's failed attempts to file electronically at least two times after 12:00 noon separated by more than one hour on each day that e-OAH experiences technical failure. If a document must be filed to meet a statutory deadline on a date that e-OAH experiences technical failure, the e-OAH user shall file that document with the Office of Administrative Hearings pursuant to Rule .0101(b) or Rule .0102(a)(2)(A) of this

Chapter and shall serve that document pursuant to Rule .0102(a)(3) of this Chapter.

*History Note: Authority G.S. 7A-750; 150B-23; 150B-23.2; 150B-23.3;
Eff. March 1, 2016;
Amended Eff. April 1, 2017; October 1, 2016.*

This Section contains information for the meeting of the Rules Review Commission May 18, 2017 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

Jeff Hyde (1st Vice Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jay Hemphill
Jeffrey A. Poley

Appointed by House

Garth Dunklin (Chair)
Stephanie Simpson (2nd Vice Chair)
Paul Powell
Jeanette Doran

COMMISSION COUNSEL

Abigail Hammond	(919)431-3076
Amber Cronk May	(919)431-3074
Amanda Reeder	(919)431-3079
Jason Thomas	(919)431-3081

RULES REVIEW COMMISSION MEETING DATES

May 18, 2017	June 15, 2017
July 20, 2017	August 17, 2017

AGENDA

RULES REVIEW COMMISSION
THURSDAY, MAY 18, 2017 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. Commission for Mental Health, Developmental Disabilities and Substance Abuse Services - 10A NCAC 27H .0202, .0203, .0204, .0205, .0206, .0207 (May)
 - B. Department of Insurance - 11 NCAC 05A .0501, .0505, .0508, .0511 (Hammond)
 - C. Manufactured Housing Board - 11 NCAC 08 .0904 (Thomas)
 - D. Locksmith Licensing Board - 21 NCAC 29 .0102, .0201, .0204, .0205, .0206, .0401, .0402, .0404, .0502, .0503, .0504, .0601, .0702, .0703, .0802, .0803, .0804, .0805, .0806 (Reeder)
 - E. Board of Massage and Bodywork Therapy - 21 NCAC 30 .0903, .0906 (Hammond)
- IV. Review of Log of Filings (Permanent Rules) for rules filed March 21, 2017 through April 20, 2017
 - Historical Commission (May)
 - Wildlife Resources Commission (May)
 - Commission for Public Health (Reeder)
 - Department of Revenue (May)
 - Board of Dental Examiners (Hammond)
 - Board for Licensing of Geologists (Thomas)
 - Board of Nursing (Reeder)
 - Veterinary Medical Board (Reeder)
- V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- VI. Existing Rules Review
 - Review of Reports

1. 07 NCAC 01 – Department of Natural and Cultural Resources (May)
2. 07 NCAC 02G,H,I – Public Library Certification Commission (May)
3. 07 NCAC 02J - Department of Natural and Cultural Resources (May)
4. 07 NCAC 03 - Department of Natural and Cultural Resources (May)
5. 07 NCAC 05 – USS North Carolina Battleship Commission (May)
6. 07 NCAC 06 – Tryon Palace Commission (May)
7. 07 NCAC 07 - Historic Bath Commission (May)
8. 07 NCAC 08 - Historic Murfreesboro Commission (May)
9. 07 NCAC 09 - Edenton Historical Commission (May)
10. 07 NCAC 10 - Department of Natural and Cultural Resources (May)
11. 10A NCAC 13B - Medical Care Commission (May)
12. 15A NCAC 27 - Well Contractors Certification Commission (Hammond)
13. 21 NCAC 25 - Interpreter and Transliterator Licensing Board (Reeder)

- Readoption

14. 08 NCAC 01, 02, 03, 04, 06B, 08, 09, 10B - Board of Elections (Hammond)
15. 21 NCAC 20 - Board of Registration for Foresters (Hammond)

VII. Commission Business

- Next meeting: Thursday, June 15, 2017

Commission Review
Log of Permanent Rule Filings
March 21, 2017 through April 20, 2017

HISTORICAL COMMISSION

The rules in Chapter 4 are from the Division of Archives and History.

The rules in Subchapter 4R concern the archaeology and historic preservation section including general provisions (.0100); environmental review (.0200); national register: plan (.0300); historic properties and historic districts commissions (.0500); designation of historic properties under the state building code (.0600); archaeological resources protection act (.0700); archaeology services (.0800); tax act certification review (.0900); exploration: recovery: and salvage (.1000); historic preservation and conservation agreements (.1400); survey and planning services (.1500); and archaeological permits.

<u>Definitions</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0702</u>
<u>Repeal/*</u>				
<u>Archaeological Investigations on State Lands</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0703</u>
<u>Repeal/*</u>				
<u>Emergency Archaeological Investigation</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0704</u>
<u>Repeal/*</u>				
<u>Application for Archaeological Permits</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0705</u>
<u>Repeal/*</u>				
<u>Qualifications for Permits</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0706</u>
<u>Repeal/*</u>				
<u>Issuance of Permits</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0707</u>
<u>Repeal/*</u>				
<u>Time Limits of Permits</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0708</u>
<u>Repeal/*</u>				
<u>Terms and Conditions of Permits</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0709</u>
<u>Repeal/*</u>				
<u>Permit Denial: Suspension and Revocation</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0710</u>
<u>Repeal/*</u>				
<u>Appeals Relating to Permits</u>	07	<u>NCAC</u>	<u>04R</u>	<u>.0711</u>
<u>Repeal/*</u>				

RULES REVIEW COMMISSION

<u>Reporting Requirements for Specific Permits</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0712</u>
<u>Repeal/*</u>				
<u>Reporting Requirements for General Permits</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0713</u>
<u>Repeal/*</u>				
<u>Report Review for Specific Permits</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0714</u>
<u>Repeal/*</u>				
<u>Report Review for General Permits</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0715</u>
<u>Repeal/*</u>				
<u>Custody of Resources Under the Terms of a Specific Permit</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0716</u>
<u>Repeal/*</u>				
<u>Custody/Archaeological Resources Under/Terms: General Permit</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0717</u>
<u>Repeal/*</u>				
<u>Confidentiality</u>	<u>07</u>	<u>NCAC</u>	<u>04R</u>	<u>.0718</u>
<u>Repeal/*</u>				

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).

<u>Clay County</u>	<u>15A</u>	<u>NCAC</u>	<u>10F</u>	<u>.0308</u>
<u>Amend/*</u>				
<u>Pender County</u>	<u>15A</u>	<u>NCAC</u>	<u>10F</u>	<u>.0321</u>
<u>Amend/*</u>				
<u>Perquimans County</u>	<u>15A</u>	<u>NCAC</u>	<u>10F</u>	<u>.0355</u>
<u>Amend/*</u>				

PUBLIC HEALTH, COMMISSION FOR

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D).

The rules in Subchapter 18A deal with sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps (.3600); and private drinking water well sampling (.3800).

<u>Definitions</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1801</u>
<u>Repeal/*</u>				
<u>Permits</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1802</u>
<u>Repeal/*</u>				
<u>Public Display of Grade Card</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1803</u>
<u>Repeal/*</u>				
<u>Inspections</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1804</u>
<u>Repeal/*</u>				
<u>Inspection Forms</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1805</u>
<u>Repeal/*</u>				

<u>Grading</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1806</u>
Repeal/*				
<u>Approved Lodging Establishments</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1807</u>
Repeal/*				
<u>Lobby: Halls: Stairs: and Vending Areas</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1808</u>
Repeal/*				
<u>Lavatories and Baths</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1809</u>
Repeal/*				
<u>Water Supply</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1810</u>
Repeal/*				
<u>Drinking Water Facilities</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1811</u>
Repeal/*				
<u>Guestrooms</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1812</u>
Repeal/*				
<u>Storage and Laundry Facilities</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1813</u>
Repeal/*				
<u>Disposal of Garbage and Trash: Premises</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1814</u>
Repeal/*				
<u>Severability</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1815</u>
Repeal/*				
<u>Appeals Procedure</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1817</u>
Repeal/*				
<u>Plan Review</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1818</u>
Repeal/*				
<u>Definitions</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1821</u>
Adopt/*				
<u>Management and Personnel</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1822</u>
Adopt/*				
<u>Food</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1823</u>
Adopt/*				
<u>Equipment and Utensils</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1824</u>
Adopt/*				
<u>Water, Plumbing, and Waste</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1825</u>
Adopt/*				
<u>Physical Facilities</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1826</u>
Adopt/*				
<u>Premises, Storage, Poisonous or Toxic Materials</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1827</u>
Adopt/*				
<u>Laundry and Linens</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1828</u>
Adopt/*				
<u>Permits</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1829</u>
Adopt/*				
<u>Public Display of Grade Card</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1830</u>
Adopt/*				
<u>Inspections and Reinspections</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1831</u>
Adopt/*				
<u>Grading</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1832</u>
Adopt/*				
<u>Application and Plan Review</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1833</u>
Adopt/*				
<u>Informal Review Process and Appeals Procedure</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.1834</u>
Adopt/*				

<u>Definitions</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2201</u>
Repeal/*				
<u>Permits</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2202</u>
Repeal/*				
<u>Inspections: Visits: Posting of Grade Card</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2203</u>
Repeal/*				
<u>Inspection Forms</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2204</u>
Repeal/*				
<u>Grading</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2205</u>
Repeal/*				
<u>Floors</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2206</u>
Repeal/*				
<u>Walls and Ceilings</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2207</u>
Repeal/*				
<u>Lighting and Ventilation</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2208</u>
Repeal/*				
<u>Toilet: Handwashing: Laundry: and Bathing Facilities</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2209</u>
Repeal/*				
<u>Water Supply</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2210</u>
Repeal/*				
<u>Drinking Water Facilities: Ice Handling</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2211</u>
Repeal/*				
<u>Disposal of Wastes</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2212</u>
Repeal/*				
<u>Vermin Control: Premises</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2213</u>
Repeal/*				
<u>Storage: Miscellaneous</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2214</u>
Repeal/*				
<u>Beds: Linen: Furniture</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2215</u>
Repeal/*				
<u>Food Service Utensils and Equipment</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2216</u>
Repeal/*				
<u>Food Supplies</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2217</u>
Repeal/*				
<u>Food Protection</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2218</u>
Repeal/*				
<u>Food Service Persons</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2219</u>
Repeal/*				
<u>Severability</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2220</u>
Repeal/*				
<u>Appeals Procedure</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.2221</u>
Repeal/*				
<u>Definitions</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3001</u>
Repeal/*				
<u>Permits</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3002</u>
Repeal/*				
<u>Inspections: Visits: Posting of Grade Cards</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3003</u>
Repeal/*				
<u>Inspection Forms</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3004</u>
Repeal/*				
<u>Grading</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3005</u>
Repeal/*				

<u>Food Source and Protection</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3006</u>
Repeal/*				
<u>Food Service Persons</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3007</u>
Repeal/*				
<u>Food Service Utensils and Equipment and Their Cleaning</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3008</u>
Repeal/*				
<u>Lavatories and Bathrooms</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3009</u>
Repeal/*				
<u>Water Supply</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3010</u>
Repeal/*				
<u>Drinking Water Facilities</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3011</u>
Repeal/*				
<u>Beds: Linen</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3012</u>
Repeal/*				
<u>Vermin Control: Premises</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3013</u>
Repeal/*				
<u>Storage: Miscellaneous</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3014</u>
Repeal/*				
<u>Floors: Walls: Ceilings: Lighting: Ventilation</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3015</u>
Repeal/*				
<u>Disposal of Garbage and Trash</u>	<u>15A</u>	<u>NCAC</u>	<u>18A</u>	<u>.3016</u>
Repeal/*				

REVENUE, DEPARTMENT OF

The rules in Chapter 1 are the departmental rules of the Department of Revenue.

Subchapter 1C rules deal with general administration and contain definitions (.0100); hearing procedures (.0200); forms (.0300); interest requirements (.0400); form of payment (.0500); substitution of forms (.0600); and electronic filing forms (.0700).

<u>Warrant for Tax Collection</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0308</u>
Repeal/*				
<u>Method of Payment</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0502</u>
Readopt with Changes/*				
<u>EFT Definitions</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0503</u>
Readopt with Changes/*				
<u>When Payment by EFT is Required</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0504</u>
Repeal/*				
<u>EFT Identification and Notification Procedures</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0505</u>
Readopt with Changes/*				
<u>Enrollment for ACH Credit and ACH Debit</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0507</u>
Readopt with Changes/*				
<u>Methods of Electronic Funds Transfer</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0508</u>
Repeal/*				
<u>EFT Payment Procedures</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0509</u>
Repeal/*				
<u>EFT Payment Procedures - ACH Method</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0510</u>
Readopt with Changes/*				
<u>EFT Payment Procedures - ACH Credit Method</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0511</u>
Readopt with Changes/*				
<u>Approval Required for Substitute Forms</u>	<u>17</u>	<u>NCAC</u>	<u>01C</u>	<u>.0601</u>
Readopt with Changes/*				

DENTAL EXAMINERS, BOARD OF

The rules in Subchapter 16Q concern general anesthesia and sedation including definitions (.0100); general anesthesia (.0200); parenteral conscious sedation (.0300); enteral conscious sedation (.0400); renewal of permits (.0500); reporting and penalties (.0600); and penalty for non-compliance (.0700).

<u>General Anesthesia and Sedation Definitions</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0101</u>
<u>General Anesthesia Credentials and Permit</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0201</u>
<u>General Anesthesia Equipment and Clinical Requirements</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0202</u>
<u>Itinerant (Mobile) General Anesthesia Permit, Equipment a...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0206</u>
<u>Annual Review of General Anesthesia and Itinerant (Mobile...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0207</u>
<u>Credentials and Permits for Moderate Parenteral and Enter...</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0301</u>
<u>Moderate Parenteral and Enteral Conscious Sedation Clinic...</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0302</u>
<u>Off Site Use of Moderate Parenteral and Enteral Conscious...</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0304</u>
<u>Annual Renewal of Moderate Parenteral and Enteral Conscio...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0305</u>
<u>Credentials and Permits for Moderate Pediatric Conscious ...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0404</u>
<u>Moderate Pediatric Conscious Sedation Clinical Requiremen...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0405</u>
<u>Off Site Use of Moderate Pediatric Conscious Sedation Per...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0406</u>
<u>Annual Renewal of Moderate Pediatric Conscious Sedation P...</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>16Q</u>	<u>.0407</u>

GEOLOGISTS, BOARD FOR LICENSING OF

The rules in Chapter 21 are from the Board for Licensing of Geologists and include statutory and administrative provisions (.0100); records and reports of board, retention and disposition (.0200); licensing of geologists (.0300); disciplinary action and procedure (.0500); administrative hearings, decisions, related rights (.0600); rulemaking proceedings (.0800); declaratory rulings (.0900); professional corporations (.1000); and professional conduct (.1100).

<u>Authority: Name and Location of Board</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0101</u>
<u>Organization of the Board</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0103</u>
<u>Duties of Officers</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0104</u>
<u>Requirements for Licensing</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0301</u>
<u>Application Procedure</u> Amend/*	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0302</u>
<u>Inactive Status</u> Adopt/*	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0303</u>

RULES REVIEW COMMISSION

<u>Continuing Education</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0403</u>
Adopt/*				
<u>Requirements</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0404</u>
Adopt/*				
<u>Determination of Credit</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0405</u>
Adopt/*				
<u>Recordkeeping</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0406</u>
Adopt/*				
<u>Exemptions</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0407</u>
Adopt/*				
<u>Filing of Charges and Disciplinary Actions</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0501</u>
Amend/*				
<u>Reprimand</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0502</u>
Amend/*				
<u>Right to Hearing</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0505</u>
Amend/*				
<u>Request for Hearing</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0506</u>
Amend/*				
<u>Types of Intervention</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0511</u>
Amend/*				
<u>Disqualification of Board Members</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0513</u>
Amend/*				
<u>Investigation</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0514</u>
Amend/*				
<u>Disciplinary Procedure</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0515</u>
Amend/*				
<u>Petition for Rulemaking Hearings</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0803</u>
Amend/*				
<u>Disposition of Petitions</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0804</u>
Amend/*				
<u>Disposition of Requests</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.0903</u>
Amend/*				
<u>Rules of Professional Conduct</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.1101</u>
Amend/*				
<u>Rules of Conduct of Advertising</u>	<u>21</u>	<u>NCAC</u>	<u>21</u>	<u>.1102</u>
Amend/*				

NURSING, BOARD OF

The rules in Chapter 36 include rules relating to general provisions (.0100); licensure (.0200); approval of nursing programs (.0300); unlicensed personnel and nurses aides (.0400); professional corporations (.0500); articles of organization (.0600); nurse licensure compact (.0700); and approval and practice parameters for nurse practitioners (.0800).

<u>Definitions</u>	<u>21</u>	<u>NCAC</u>	<u>36</u>	<u>.0120</u>
Amend/*				
<u>Revocation, Suspension or Denial of License</u>	<u>21</u>	<u>NCAC</u>	<u>36</u>	<u>.0217</u>
Amend/*				

VETERINARY MEDICAL BOARD

The rules in Chapter 66 are from the Veterinary Medical Board including statutory and administrative provisions (.0100); practice of veterinary medicine (.0200); examination and licensing procedures (.0300); rules petitions hearings (.0400); declaratory rulings (.0500); administrative hearings procedures (.0600); administrative hearings decisions related rights (.0700) and judicial review (.0800).

Limited Veterinary License

Amend/*

21 NCAC 66 .0311

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

Melissa Owens Lassiter
Don Overby
J. Randall May
David Sutton

A. B. Elkins II
Selina Brooks
J. Randolph Ward
Stacey Bawtinhimer

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 919-431-3000.

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ	
	<u>PUBLISHED</u>							
17	CPS	00283	3/30/2017	Karen S Semachko	v.	NC Crime Victims Compensation Commission	Bawtinhimer	
16	DHR	09605	3/29/2017	Skeen Personal Care Services LLC/Skeen Services	v.	Division of Medical Assistance	May	
16	DOJ	05923	3/10/2017	Sheila Smith Bullard	v.	NC Criminal Justice Education and Training Standards Commission	Overby	
16	DOJ	09423	3/14/2017	Lavelle Wall	v.	North Carolina Criminal Justice Education and Training Standards Commission	May	
16	DOJ	10146	3/15/2017	Dejuan Eric Brown	v.	North Carolina Criminal Justice Education and Training Standards Commission	Brooks	
16	DOJ	10755	3/9/2017	Courtney James Elliott	v.	NC Private Protective Services Board	Lassiter	
16	DOJ	10880	3/9/2017	William David Boykin	v.	NC Alarm Systems Licensing Board	Lassiter	

CONTESTED CASE DECISIONS

16	INS	08449	3/13/2017	Kelly Grissett	v.	NC State Health Plan Blue Cross Blue Shield	Ward	
16	OSP	11709; 11712; 12158	3/16/2017	Edwin Smith Preston III	v.	North Carolina Department of Labor	Brooks	
	<u>UNPUBLISHED</u>							
16	ABC	09932	3/9/2017	NC Alcoholic Beverage Control Commission	v.	Dolgencorp LLC T/A Dollar General Store 2949	Elkins	
16	BME	12192	3/21/2017	Jesse O Cavenar Jr MD	v.	North Carolina Medical Board	Ward	
17	CPS	00440	3/31/2017	Stanley D Hagins	v.	NC Department of Public Safety	Mann	
16	CSE	10551	3/3/2017	James Tilford Keller	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks	
16	CSE	10627	3/15/2017	Dennis E. Lane	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section	Lassiter	
16	CSE	10756	3/17/2017	Matthew B. Carter	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter	
16	CSE	10757	3/17/2017	Ernst Barjon	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby	
16	CSE	10842	3/6/2017	George A Brunetti	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks	
16	CSE	10939	3/7/2017	Li Fang Cai	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter	
16	CSE	11075	3/30/2017	Eric E Alligood	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	May	

CONTESTED CASE DECISIONS

16	CSE	11133	3/31/2017	Joseph E. Best	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Overby	
16	CSE	11306	3/27/2017	Dominic G Cuda	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter	
16	CSE	11398	3/15/2017	Philip J McPoyle	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks	
16	CSE	11440	3/7/2017	Danita L Manning	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter	
16	CSE	11442	3/3/2017	Fletcher D. Bryant	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Overby	
16	CSE	11751	3/3/2017	William D Britt Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter	
16	CSE	11826	3/16/2017	Jamie W. Berry	v.	North Carolina Department of Health and Human Services Division of Social Services Child Support Enforcement Section	Overby	
16	CSE	12074	3/28/2017	Dwight T. Powell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Lassiter	
16	CSE	12075	3/27/2017	Dwight T. Powell	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Services	Lassiter	
17	CSE	00058	3/30/2017	Shakir Brooks	v.	Durham County Social Services Child Support	May	
17	CSE	00206	3/23/2017	David Janney	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks	
17	CSE	00365	3/31/2017	Christopher J Bashaw	v.	North Carolina Department of Health and Human Services Division of Social	Overby	

CONTESTED CASE DECISIONS

						Services Child Support Enforcement		
17	CSE	01266	3/28/2017	Lewis T Alston	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Brooks	
16	DHR	10186	3/10/2017; 3/15/2017	Stella Peartree	v.	Health Care Personnel Registry Investigation Health Care Registry	Elkins	
16	DHR	11916	3/22/2017	Elizabeth Oxendine	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Elkins	
16	DHR	12117	3/16/2017	Fernika Bryant	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Overby	
16	DHR	12187	3/29/2017	Emma Garvin	v.	NC Department of Health and Human Services, Division of Health Service Regulation	Mann	
17	DHR	00013	3/20/2017	Carmen Leticia Hewett	v.	Office of General Counsel NC Department of Health and Human Services	May	
17	DOA	00052	3/23/2017	Magni Gyro America Inc (MGA) Greg W Gremminger (VP Public Affairs)	v.	Elizabeth City State University	May	amended
16	DOJ	01455	3/10/2017	Chelsea La'Maine Lanier	v.	NC Private Protective Services Board	Elkins	
16	DOJ	08396	3/3/2017	Terry Emmanuel David, Jr.	v.	North Carolina Private Protective Services Board	Overby	
16	DOJ	10876	3/10/2017	Johanna Lissett Gomez	v.	NC Sheriffs Education and Training Standards Commission	Elkins	
16	DOJ	11875	3/1/2017	Tyesha Evette Anderson	v.	NC Private Protective Services Board	Ward	
17	LPC	00765	3/16/2017	Jesse O Cavenar Jr MD	v.	North Carolina Board of Licensed Professional Counselors	Overby	
15	OSP	07944	3/30/2017	Joseph Vincoli	v.	NC Department of Public Safety	Ward	

CONTESTED CASE DECISIONS

16	OSP	12178	3/23/2017	Jasmine Burch	v.	DHSR - Construction Section Paula Nichols	Mann	
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