

# ***NORTH CAROLINA REGISTER***

**VOLUME 33 • ISSUE 23 • Pages 2238 – 2345**

**June 3, 2019**

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### **PUBLISHED BY**

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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.

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(919) 733-0640 FAX

Contact: Carrie Hollis, Economic Analyst

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NC Association of County Commissioners

215 North Dawson Street

(919) 715-2893

Raleigh, North Carolina 27603

contact: Amy Bason

[amy.bason@ncacc.org](mailto:amy.bason@ncacc.org)

NC League of Municipalities

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Raleigh, North Carolina 27601

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545 Legislative Office Building

300 North Salisbury Street

(919) 733-2578

Raleigh, North Carolina 27611

(919) 715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

**NORTH CAROLINA REGISTER**  
Publication Schedule for January 2019 – December 2019

| 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 | RRC Meeting Date | Earliest Eff. Date of Permanent Rule | 270 <sup>th</sup> day from publication in the Register |
| 33:13                 | 01/02/19   | 12/06/18            | 01/17/19                         | 03/04/19                       | 03/20/19   | 04/18/19         | 05/01/19                             | 09/29/19   |
| 33:14                 | 01/15/19   | 12/19/18            | 01/30/19                         | 03/18/19                       | 03/20/19   | 04/18/19         | 05/01/19                             | 10/12/19   |
| 33:15                 | 02/01/19   | 01/10/19            | 02/16/19                         | 04/02/19                       | 04/22/19   | 05/16/19         | 06/01/19                             | 10/29/19   |
| 33:16                 | 02/15/19   | 01/25/19            | 03/02/19                         | 04/16/19                       | 04/22/19   | 05/16/19         | 06/01/19                             | 11/12/19   |
| 33:17                 | 03/01/19   | 02/08/19            | 03/16/19                         | 04/30/19                       | 05/20/19   | 06/20/19         | 07/01/19                             | 11/26/19   |
| 33:18                 | 03/15/19   | 02/22/19            | 03/30/19                         | 05/14/19                       | 05/20/19   | 06/20/19         | 07/01/19                             | 12/10/19   |
| 33:19                 | 04/01/19   | 03/11/19            | 04/16/19                         | 05/31/19                       | 06/20/19   | 07/18/19         | 08/01/19                             | 12/27/19   |
| 33:20                 | 04/15/19   | 03/25/19            | 04/30/19                         | 06/14/19                       | 06/20/19   | 07/18/19         | 08/01/19                             | 01/10/20   |
| 33:21                 | 05/01/19   | 04/09/19            | 05/16/19                         | 07/01/19                       | 07/22/19   | 08/15/19         | 09/01/19                             | 01/26/20   |
| 33:22                 | 05/15/19   | 04/24/19            | 05/30/19                         | 07/15/19                       | 07/22/19   | 08/15/19         | 09/01/19                             | 02/09/20   |
| 33:23                 | 06/03/19   | 05/10/19            | 06/18/19                         | 08/02/19                       | 08/20/19   | 09/19/19         | 10/01/19                             | 02/28/20   |
| 33:24                 | 06/17/19   | 05/24/19            | 07/02/19                         | 08/16/19                       | 08/20/19   | 09/19/19         | 10/01/19                             | 03/13/20   |
| 34:01                 | 07/01/19   | 06/10/19            | 07/16/19                         | 08/30/19                       | 09/20/19   | 10/17/19         | 11/01/19                             | 03/27/20   |
| 34:02                 | 07/15/19   | 06/21/19            | 07/30/19                         | 09/13/19                       | 09/20/19   | 10/17/19         | 11/01/19                             | 04/10/20   |
| 34:03                 | 08/01/19   | 07/11/19            | 08/16/19                         | 09/30/19                       | 10/21/19   | 11/21/19         | 12/01/19                             | 04/27/20   |
| 34:04                 | 08/15/19   | 07/25/19            | 08/30/19                         | 10/14/19                       | 10/21/19   | 11/21/19         | 12/01/19                             | 05/11/20   |
| 34:05                 | 09/03/19   | 08/12/19            | 09/18/19                         | 11/04/19                       | 11/20/19   | 12/19/19         | 01/01/20                             | 05/30/20   |
| 34:06                 | 09/16/19   | 08/23/19            | 10/01/19                         | 11/15/19                       | 11/20/19   | 12/19/19         | 01/01/20                             | 06/12/20   |
| 34:07                 | 10/01/19   | 09/10/19            | 10/16/19                         | 12/02/19                       | 12/20/19   | 01/16/20         | 02/01/20                             | 06/27/20   |
| 34:08                 | 10/15/19   | 09/24/19            | 10/30/19                         | 12/16/19                       | 12/20/19   | 01/16/20         | 02/01/20                             | 07/11/20   |
| 34:09                 | 11/01/19   | 10/11/19            | 11/16/19                         | 12/31/19                       | 01/21/20   | 02/20/20         | 03/01/20                             | 07/28/20   |
| 34:10                 | 11/15/19   | 10/24/19            | 11/30/19                         | 01/14/20                       | 01/21/20   | 02/20/20         | 03/01/20                             | 08/11/20   |
| 34:11                 | 12/02/19   | 11/06/19            | 12/17/19                         | 01/31/20                       | 02/20/20   | 03/19/20         | 04/01/20                             | 08/28/20   |
| 34:12                 | 12/16/19   | 11/21/19            | 12/31/19                         | 02/14/20                       | 02/20/20   | 03/19/20         | 04/01/20                             | 09/11/20   |

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.

Public Notice  
North Carolina Environmental Management Commission  
Division of Water Resources/Water Quality Permitting Section  
1617 Mail Service Center  
Raleigh, NC 27699-1617  
Notice of Intent to Reissue an NPDES General Wastewater Permit

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

NPDES General Permit No. NCG590000 for the discharge of wastewater resulting from greensand and conventional type water treatment facilities.

Written comments regarding the proposed general permit will be accepted until 30 days after the publish date of this notice. The Director of the NC Division of Water Resources (DWR) may hold a public hearing should there be a significant degree of public interest. Please mail comments and/or information requests to DWR at the above address. Interested persons may visit the DWR at 512 N. Salisbury Street, Raleigh, NC to review information on file. Additional information on this notice may be found on our website:

<http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/npdes-wastewater/public-notices>

For questions or comments about NPDES General Permit NCG590000 for the discharge of wastewater resulting from greensand and conventional type water treatment facilities, please contact Brianna Young at (919) 707-3619 or via e-mail: [brianna.young@ncdenr.gov](mailto:brianna.young@ncdenr.gov).

**North Carolina Department of Labor  
Division of Occupational Safety and Health  
1101 Mail Service Center  
Raleigh, NC 27699-1101**

(919) 707-7806

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**NOTICE OF VERBATIM ADOPTION OF FEDERAL STANDARDS**

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In consideration of G.S. 150B-21.5(c) the Occupational Safety and Health Division of the Department of Labor hereby gives notice that:

- Rule changes have been submitted to update the *North Carolina Administrative Code* at 13 NCAC 07F .0201, to incorporate by reference the occupational safety and health related provisions of Title 29 of the *Code of Federal Regulations* Parts 1926 promulgated as of November 9, 2018, except as specifically described, and
- The *North Carolina Administrative Code* at 13 NCAC 07A .0301 automatically includes amendments to certain parts of the *Code of Federal Regulations*, including Title 29, Part 1926—Construction Standards.

This update encompasses the following recent verbatim adoption:

- Occupational Safety and Health Standards, 29 CFR § 1926 - Incorporation by reference – Amended (83 FR 56198, November 9, 2018)

The *Federal Register* (FR), as cited above, updates the agency's standard for cranes and derricks in construction by clarifying each employer's duty to ensure the competency of crane operators through training, certification or licensing, and evaluations. It also alters a provision that required different levels of certification based on the rated lifting capacity of equipment. While testing organizations are not required to issue certifications distinguished by rated capacities, they are permitted to do so, and employers may accept them or continue to rely on certifications based on crane type alone. Finally, this rule establishes minimum requirements for determining operator competency. OSHA's final rule was effective December 10, 2018, except the amendments to 29 CFR 1926.1427(a) and (f) (evaluation and documentation requirements), which became effective February 7, 2019.

For additional information, please contact:

Bureau of Education, Training and Technical Assistance  
Occupational Safety and Health Division  
North Carolina Department of Labor  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101

For additional information regarding North Carolina's process of adopting federal OSHA Standards verbatim, please contact:

Jill F. Cramer, Agency Rulemaking Coordinator  
North Carolina Department of Labor  
Legal Affairs Division  
1101 Mail Service Center  
Raleigh, North Carolina 27699-1101

**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 01 – DEPARTMENT OF ADMINISTRATION

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Department of Administration intends to amend the rules cited as 01 NCAC 05A .0112; 05B .0103, repeal the rule cited as 01 NCAC 05B .0210, readopt with substantive changes the rules cited as 01 NCAC 05B .0303-.0306, .0308-.0310, .0316, .0317, .0501, .0503, .1108, .1201, .1507, .1511, .1516, .1519-.1522, and repeal through readoption the rules cited as 01 NCAC 05B .0207, .0208, .0313, .0502, .1501, .1510; and 05D .0209.*

*Pursuant to G.S. 150B-21.17, the Codifier has determined it impractical to publish the text of rules proposed for repeal unless the agency requests otherwise. The text of the rule(s) are available on the OAH website at <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://ncadmin.nc.gov/about-doa/administrative-rules-review/proposed-rules-and-public-comment>

**Proposed Effective Date:** October 1, 2019

### Public Hearing:

**Date:** June 25, 2019

**Time:** 9:00 a.m.-11:00 a.m.

**Location:** Conference Room, Capehart-Crocker House, 424 N. Blount Street, Raleigh, NC 27603

**Reason for Proposed Action:** Rules scheduled for readoption pursuant to the periodic review set forth in G.S. 150B-21.3.

**Comments may be submitted to:** Shanon M. Gerger, NC Department of Administration, 1301 Mail Service Center, Raleigh, NC 27699-1301; phone (984) 236-0008; fax (919) 733-9571; email [adminrules@doa.nc.gov](mailto:adminrules@doa.nc.gov)

**Comment period ends:** August 2, 2019

### 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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq$  \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

## CHAPTER 05 - PURCHASE AND CONTRACT

### SUBCHAPTER 05A – DIVISION OF PURCHASE AND CONTRACT

#### 01 NCAC 05A .0112 DEFINITIONS

~~(a) For the purpose of this Chapter, agency is defined as all departments, institutions, boards, commissions, universities, or other units of the State (including the Division of Purchase and Contract), and community colleges and local school administrative units, unless specifically exempted herein by reference. For the purpose of identifying a special responsibility constituent institution, as designated by the University Board of Governors, just the name "university(ies)" shall be used to distinguish any differences in the rules.~~

~~(b) A service contract shall mean any agreement in which an independent contractor performs services requiring specialized knowledge, experience, expertise or similar capabilities for a state agency for compensation involving an expenditure of public funds. The services may include (by way of illustration, not limitation) services such as maintenance of buildings or equipment, auditing, film production, employee training and food services, provided that the service is not primarily for review, analysis or advice in formulating or implementing improvements in programs or services (in which case rules relating to consultants shall be applicable).~~

~~(c) Where the term "Offer" is used, it refers to a bid, proposal or Offer submitted in response to an Invitation for Bids, Request for Proposals, Negotiation, or Request for Quotations.~~

~~(d) For the purpose of this Chapter, commodity(ies) is defined as any equipment, materials or supplies. It does not include services or printing.~~

For the purpose of this Chapter:

- (1) "Agency" means all departments, institutions, boards, commissions, universities, community colleges or other units of the State, unless specifically exempted by statute.
- (2) "Best and Final Offer" ("BAFO") is a document that memorializes the details of Negotiations

- between the State and a Vendor and mutually modifies the Vendor's Offer.
- (3) "Best Value Procurement" means the selection of a Vendor based on a determination of which Offer provides the best trade-off between price and performance, where quality is considered an integral performance factor as defined in G.S. 143-135.9.
- (4) "Bid Value Benchmark" or "General Delegation" means the maximum authorized expenditure for which an agency may contract to purchase Goods or Services without obtaining prior approval for the purchase from the Division.
- (5) "Consultant Services" means contracted work or tasks performed by a Vendor or independent contractor possessing specialized knowledge, experience, expertise and professional qualifications to investigate assigned problems or projects and to provide counsel, review, analysis or advice in formulating or implementing improvements in programs or Services. This includes improvements related to the organization, planning, directing, control, evaluation and operation of a program, Agency or department.
- (6) "Clarification" means communications between the State and a Vendor that may occur after receipt of Vendor's Offer made for the purpose of eliminating irregularities, informalities, or apparent clerical mistakes in an Offer. A Clarification may also be used to allow the State's reasonable interpretation of an Offer or Offers or to facilitate the State's evaluation of all Offers. A Clarification shall not be used to cure material deficiencies in an Offer, alter the scope of an Offer, or to negotiate.
- (7) "Competition" in purchasing exists when the available market for the Goods or Services to be acquired consists of more than one Responsible Vendor that is technically qualified and willing to submit an Offer.
- (8) "Competitive Range" means a rational grouping of the most competitive Offers as determined by the Purchasing Agency.
- (9) "Contract" means any type of agreement entered into by State Agencies, regardless of what it may be titled or called, setting out the obligations of the parties concerning a Procurement of Goods or Services.
- (10) "Deficiency" means either a failure to meet a stated requirement or a combination of weaknesses in an Offer that materially increases the risk of unsuccessful contract performance.
- (11) "Division" means the Division of Purchase and Contract.
- (12) "Electronic" means electrical, digital, magnetic, optical, electromagnetic or any other similar technology.
- (13) "Electronic Bid System" means the Division's Electronic system used variously to advertise Solicitations, notify Vendors, conduct Reverse Auctions, and post contract awards.
- (14) "Emergency Situations" means unforeseen circumstances that endanger lives, property, or the continuation of a vital program, as determined by the purchasing Agency Director, and that can be rectified only by immediate purchases or rental of Goods or Services.
- (15) "Goods" means any tangible property, including all equipment, materials, supplies and commodities. Unless the context requires otherwise, acquisition of printing shall be considered the purchase of Goods under these Rules.
- (16) "Goods Contract" means any agreement predominantly involving the Procurement of Goods from a Vendor, but which may also have ancillary Services aspects.
- (17) "Negotiation" means oral or written communications in a waived or open competitive Procurement between the State and Vendor undertaken with the intent of allowing Vendor to revise their Offers. Revisions may apply to price, schedule, technical requirements, or other terms of the proposed contract. Negotiations are specific to each Offer and shall be conducted to maximize the State's ability to obtain best value based on the evaluation factors set forth in the Solicitation. Negotiations shall be memorialized in any resulting Contract.
- (18) "Offer" means a bid, proposal, BAFO or other proposition submitted in response to any Solicitation, Negotiation, or other approved acquisition process, as well as responses to solution-based Solicitations and government-Vendor partnerships.
- (19) "Personal Service Contract" means a Contract for defined Services provided by a professional individual, corporation, or independent contractor on a temporary or occasional basis, including those provided by a doctor, dentist, attorney, architect, professional engineer, scientist or performer of the fine arts or similar professions. Personal Services Contracts are a type of Services Contract.
- (20) "Pressing Need" means a need arising from unforeseen causes outside the State's control, including delay by contractors, delay in transportation, breakdown in machinery, or unanticipated volume of work, which can be satisfied only by immediate purchase or rental of Goods or Services.



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| <p>(21) <u>"Price" means the amount paid by the State to a Vendor for Goods or Services.</u></p> <p>(22) <u>"Procurement" means the process of acquiring Goods or Services.</u></p> <p>(23) <u>"Progressive Award" means an award of portions of a definite quantity requirement to more than one Vendor. Each portion is for a definite quantity and the sum of the portions is the total quantity procured. A Progressive Award may be in the Purchasing Agency's best interest when awards to more than one Vendor for different amounts of the same item are needed to obtain the total quantity or the time or times of delivery required.</u></p> <p>(24) <u>"Public Funds" means any amount received, held, disbursed or otherwise subject to or accounted for in accordance with the State Budget Act and amounts used to acquire Goods and Services that are required to be purchased in accordance with Article 3 of Chapter 143 of the General Statutes.</u></p> <p>(25) <u>"Purchasing Agency" or "Purchaser" means the Agency that issues a purchase order or otherwise acquires Goods or Services through a purchasing process.</u></p> <p>(26) <u>"Responsible Vendor" means a Vendor who demonstrates in its Offer that it has the capability to perform fully the requirements of the Solicitation and who shows sufficient integrity, financial stability and reliability to perform its contract obligations in a satisfactory manner.</u></p> <p>(27) <u>"Responsive Offer" means an Offer that conforms to the Requirements of the Solicitation in all material respects to be considered by the State for award.</u></p> <p>(28) <u>"Requirement" is a provision of a Solicitation and any resulting Contract which prescribes the nature or details of a standard, process or procedure that must be complied with by the Vendor before any further evaluation of the Offer is conducted by the State.</u></p> <p>(29) <u>"Sealed Offer" means an Offer that remains unopened until the public opening time stated in the Solicitation.</u></p> <p>(30) <u>"Secretary" means the Secretary of the NC Department of Administration.</u></p> <p>(31) <u>"Service Contract" means any agreement for compensation involving Services and requiring a particular or specialized knowledge, experience, expertise or similar capabilities in the Vendor. Contracts for Consultant Services and Personal Services are also types of Service Contracts. A Service Contract may also involve the ancillary purchase of Goods.</u></p> <p>(32) <u>"Services" means the tasks and duties undertaken by a Vendor in a Service Contract to fulfill the requirements and Specifications of the Contract.</u></p> | <p>(33) <u>"Signature" means a manual autograph, an Electronic identifier or the Electronic result or an authentication technique, which is attached to or logically associated with a record and that is intended by the person using it to have the same force and effect as a manual signature.</u></p> <p>(34) <u>"Small Purchase" means the purchase of Goods and Services not covered by a Term Contract where the expenditure of Public Funds is less than a Small Purchase Benchmark amount set and published by the SPO on the Division's website.</u></p> <p>(35) <u>"Solicitation" means a Written or Electronic Invitation for Bids (IFB), Request for Quotations (RFQ), Request for Proposals (RFP), Best and Final Offer (BAFO), Request for Information (RFI) or other such documents approved by the SPO and expressly used to solicit or invite Vendor Offers, or to request information regarding the acquisition of Goods and Services, including all mutually agreed attachments and items incorporated by reference.</u></p> <p>(36) <u>"Specification" means any description of the physical or functional characteristics of, or the nature of, the Goods or Services to be procured.</u></p> <p>(37) <u>"SPO" means the State Procurement Officer.</u></p> <p>(38) <u>"Tabulation" means a publicly available list of Vendors submitting Offers in response to a particular Solicitation and, if applicable, the prices Offered by each.</u></p> <p>(39) <u>"Total Cost of Ownership" means a summation of all purchase, operating, and related costs to be expended during the projected lifetime of a Good or Service or both.</u></p> <p>(40) <u>"Vendor" means a contractor, supplier, bidder, company, independent contractor, firm, corporation, partnership, individual or other entity submitting a response to a Solicitation.</u></p> <p>(41) <u>"Voided Bid" means an Electronic bid that was submitted by a Vendor in connection with an Electronic Solicitation that has been cancelled and the unopened bids voided.</u></p> <p>(42) <u>"Weakness" means a flaw in the Offer that increases the risk of unsuccessful contract performance.</u></p> <p>(43) <u>"Written" or "Writing" means a communication recorded in a medium of expression that can be preserved, read, retrieved, and reproduced for an indefinite period of time, including information in a form that is electronically transmitted and stored.</u></p> |
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*Authority G.S. 116-31.10; 143-48.3; 143-48.6; 143-49; 143-53; 143-53.1; 143-57; 143-135.9.*

## **SUBCHAPTER 05B - PURCHASE PROCEDURES**

### **SECTION .0100 - REQUISITIONING**

**01 NCAC 05B .0103      CONFIDENTIALITY**

(a) All information and documentation in whatever authorized form, (e.g. Electronic, Written, and verbal) relative to the development of a contractual document (Request for Quotation, Invitation for Bids, Request for Proposals, Waiver of Competition, Negotiation, etc.) Solicitation for a proposed or pending Procurement ~~procurement or contract shall be deemed remain~~ confidential ~~in nature~~, except as deemed necessary by the purchaser to develop a complete contractual document. Such material shall remain confidential until the award of contract or action has been taken by the Purchasing Agency to cancel the Procurement. (See Rules .0210, .0309, .1501 and .1518 of this Subchapter).

(b) All information and documentation relative to the development of a Specification shall be confidential until a contract is entered into by the Purchasing Agency and the Vendor in accordance with G.S. 143-52(a).

(c) Trade secrets that the Vendor does not wish disclosed shall be identified as follows:

- (1) each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL".
- (2) if only a portion of a page marked "CONFIDENTIAL" contains trade secret information, the trade secret information shall be designated with a contrasting color or by a box around such information.

Cost information shall not be confidential.

*Authority G.S. 132-1.1; 133-33; 143-52; 143-53; 143-60.*

**SECTION .0200 - SPECIFICATIONS**

**01 NCAC 05B .0207      COPIES OF SPECIFICATIONS**

*Authority G.S. 143-49(2); 143-53.*

**01 NCAC 05B .0208      QUALIFIED PRODUCTS LIST**

*Authority G.S. 143-49(2); 143-53.*

**01 NCAC 05B .0210      CONFIDENTIALITY**

*Authority G.S. 133-33; 143-53; 143-60.*

**SECTION .0300 - PROCUREMENT AUTHORIZATION AND PROCEDURES**

**01 NCAC 05B .0303      ~~TELEGRAPH ELECTRONIC, FACSIMILE, AND TELEPHONE OFFERS~~**

E-mail, Telegraph, facsimile, and telephone offers ~~Offers~~ shall not be accepted in response to ~~solicitations~~ Solicitation that are required to be sealed pursuant to Rule .0301 of this Section. The use of digital or Electronic Signatures on Electronic Offers must be consistent with G.S. 66-312.

*Authority G.S. 66-312; 143-49; 143-52; 143-53.*

**01 NCAC 05B .0304      RECALL OF OFFERS**

Offers may be recalled prior to opening upon Written and signed request from an authorized agent of the company. Vendor to the Purchasing Agency. A record of the recall shall be maintained in the bid file.

*Authority G.S. 143-49; 143-52.*

**01 NCAC 05B .0305      PUBLIC OPENING**

(a) The Purchasing Agency shall publicly open and tabulate all Offers (except those that have been previously withdrawn, or Voided Bids) Advertised procurements shall be publicly opened at the time, date, and place identified in the procurement document. Solicitation. The Tabulation shall be made public at the time it is created unless otherwise confidential pursuant to Rule .0103 of this Section. There shall be at least two Purchasing Agency employees present at the opening when a Sealed Offer is required. At the time of opening, the names of the companies, the manufacturer(s) and catalog number(s) of the item(s) they have offered and the prices, deliveries and payment terms they have submitted shall be tabulated and this tabulation shall become public record, except as provided in Paragraph (b) of this Rule.

(b) When Negotiation after receipt of Offers is authorized, only the names of offerors and the Goods and Services offered shall be tabulated at the time of opening. The price Offer shall become available for public inspection at the time of the award.

~~(b)(c)~~ Under the two-step process, the responsive technical Offers will be evaluated and, if acceptable, only the cost/price Offers for such acceptable Offers will then be publicly opened. At least two days prior notification will be given to such offerors of the time and place of the opening. Under a two step process, the cost/price offer(s) shall not become public record until the technical offer(s) has been evaluated (first step) and then only those offerors determined by the agency which issued the solicitation document to have acceptable technical offers shall have their cost/price offers opened (second step). The cost/price offers from offerors whose technical offers were deemed unacceptable shall remain unopened. The remaining cost/price offers shall be publicly opened, and the offeror(s) with the acceptable technical offer(s) notified of the time and place for the opening. At least two agency working days notice shall be given prior to the opening. In addition, there shall be at least two agency employees present at the opening.

*Authority G.S. 143-49; 143-52; 143-53.*

**01 NCAC 05B .0306      LATE OFFERS, MODIFICATIONS, OR WITHDRAWALS**

No late offer, late modification, or late withdrawal shall be considered unless received before contract award, and the offer, modification, or withdrawal would have been timely but for the action or inaction of agency personnel directly serving the procurement process. The offeror shall have his offer delivered on time, regardless of the mode of delivery used, including the U.S. Postal Service or any other delivery services available. All Offers or modifications must be received by the due date, time and location as specified in the Solicitation document. Any Offer or modification received after the specified time shall not be

considered. Withdrawal must be requested in writing prior to the contract award.

*Authority G.S. 143-49; 143-52.*

**01 NCAC 05B .0308 EXTENSION OF ACCEPTANCE TIME**

When in the public interest, ~~companies~~ Vendors may be requested to extend the time offered for the acceptance of offers, within which an Offer is to be accepted.

*Authority G.S. 143-49; 143-52.*

**01 NCAC 05B .0309 EVALUATION**

(a) In determining the award of ~~contract~~, Contract, ~~bona fide offers~~ Responsive Offers shall be considered and evaluated as provided by statute and applicable rules. The evaluation criteria to be used in determining the award of ~~contract~~ Contract shall be identified in the ~~procurement~~ Solicitation document.

(b) ~~An unexecuted offer or an offer without a delivery time shall be rejected.~~

(c)(b) ~~During the period of evaluation and prior to award, only the information provided in the tabulation is public record. Possession of Offers, offers, including any accompanying information submitted with the offers Offers, shall be limited to persons in the agency Purchasing Agency who are responsible for handling the offers Offers and accompanying information, and to others determined necessary by the agency Purchasing Agency which issued the solicitation document, for the purpose of evaluation and award of Contracts. ~~contract.~~ No Vendor shall participate in the evaluation process nor submit any additional information or materials during the period of evaluation, unless requested by the Purchasing Agency. Offeror participation in the evaluation process shall not be permitted. Any communication with an offeror that may be necessary for purpose of clarification of its offer shall be conducted by the agency which issued the solicitation document. After award of the contract or when the need for the item or service is canceled, the complete file shall be available to any interested party with the exception of trade secrets subject to the provisions of Rules .1501 and .1518 of this Subchapter.~~

(c) Evaluation of Offers shall be conducted in accordance with the following requirements:

- (1) following evaluation of the Offers, the Purchasing Agency shall submit a recommendation to the Division;
- (2) evaluation scoring sheets, and other materials utilized to determine the ranking or assessment of the Responsive Offers shall be retained in the Agency Procurement file; and

(d) If a Vendor is determined to be non-responsive, a written determination of such status shall be made, including the reason(s) therefore with any supporting documentation in the Procurement file. The failure of a Vendor to provide requested information to the Purchasing Agency in connection to a Clarification or mandatory addendum shall be sufficient justification for a determination of non-responsiveness.

*Authority G.S. 143-49; 143-52; 143-53.*

**01 NCAC 05B .0310 NOTIFICATION OF AWARD**

If a solicitation is required to be advertised through the Division of Purchase and Contract, then notice of the resulting contract award shall be posted via the Division of Purchase and Contract's home page by the agency issuing the solicitation document in accordance with Rule .0316 of this Section. In addition, after contracts are awarded, successful companies shall be notified in writing or electronically by the agency issuing the solicitation document.

(a) Following the award of a Contract in accordance with Rule .0301 of this Section, the Purchasing Agency shall notify the winning Vendor in writing. Written notifications may include Electronic means such as posting on the Electronic Bid System, letter or e-mail.

(b) Purchasing Agencies shall post Contract awards in the same manner described in Rule .0316 of this Section.

*Authority G.S. 143-49; 143-52; 143-53.*

**01 NCAC 05B .0313 TABULATIONS AND ABSTRACTS**

*Authority G.S. 143-49; 143-52; 143-53.*

**01 NCAC 05B .0316 ADVERTISEMENT REQUIREMENTS**

(a) Unless already required by statute, all advertisements required by rule shall be through the Division of Purchase and Contract via the Division's home page on the internet. If advertisement is required by rule, the solicitation shall be advertised at least once and at least 10 days prior to the date designated for opening. This Rule does not prevent solicitation of offers by additional direct mailings or additional advertisement by an agency.

(a) Unless otherwise directed by statute or excepted pursuant to Paragraph (d) of this Rule, all advertisements required by Rule .0301 of this Section shall advertise through the Division's Electronic Bid System for at least 10 calendar days, unless a memo requesting a waiver is received by the Division and approved by the SPO in accordance with the Rule .1401 of the Section. This Rules does not prevent Solicitation of Offers by additional direct mailings or additional advertisement by a Purchasing Agency.

(b) ~~Agencies required by rule to advertise their solicitations shall electronically transmit the required data directly to the Division's home page.~~ The required data shall include the complete solicitation Solicitation document (specifications, requirements, terms and conditions, etc.), with agency name, buyer name, phone number and address for accessing hard copies of the solicitation Solicitation, solicitation identification number, title (a short description of the commodity, service or printing requirement), and the opening date, time and place. ~~If the solicitation requires potential offerors to attend a mandatory conference or mandatory site visit, this information shall also be furnished with the advertisement, to include date, time, location, contact person and the contact person's phone number.~~

(c) Within three agency working days from the award of a contract that has been advertised through the ~~Division~~, Division's Electronic Bid System, agencies Purchasing Agencies shall ~~electronically~~ transmit an award notice directly to the Division's

~~Electronic Bid System, home page on the internet.~~ The award notice shall be posted for at least 30 consecutive calendar days. This award notice shall identify the contract and award information.

(d) Exceptions to this Rule are as follows:

- (1) ~~When it is deemed by the agency's executive officer or the officer's designee that there is a valid reason for the agency not~~ If the Purchasing Agency is unable to transmit the advertisement or award notice electronically, that agency may submit the data to the Division, so the Division may Division to transmit it electronically, or the agency may place the advertisement (excluding the complete solicitation Solicitation document) via newspaper. If advertised via newspaper, the agency which issued the solicitation document shall be responsible for the advertisement and the award notice shall not be required. Some valid reasons include computer equipment failure, networking difficulties, or insufficient copies of samples for a printing job.
- (2) ~~If there is an attachment to a solicitation that the agency determines will not be electronically transmitted, then the solicitation document, when it is electronically transmitted, shall include instructions to contact the agency which issued the solicitation to obtain the attachment. If a Purchasing Agency is unable to electronically transmit an attachment to the Solicitation, the Purchasing Agency shall include instructions to obtain the attachment in the advertisement.~~
- (3) ~~If an agency determines that it is not feasible to electronically transmit a particular solicitation document through the Division's home page, then the agency shall electronically transmit a summary notice in the same way as if it had electronically transmitted the solicitation document. The summary notice will instruct anyone inquiring about the solicitation on the Division's home page to contact the agency for a hard copy. If a Purchasing Agency is unable to electronically transmit a Solicitation, the Purchasing Agency shall electronically transmit a summary notice which will provide interested Vendors with instructions to obtain a copy of the Solicitation.~~

*Authority G.S. 143-52; 143-53.*

**01 NCAC 05B .0317 MANDATORY CONFERENCES/SITE VISITS**

(a) ~~It is recommended, except in unusual cases, for agencies only to urge and caution potential offerors to attend scheduled conferences or site visits.~~

~~(a)(b)~~ When a ~~solicitation~~ Solicitation requires potential ~~offerors~~ Vendors to attend a mandatory conference or mandatory site visit, the date, time, location, and other ~~pertinent~~ details of the

conference or site visit shall be given in the ~~solicitation document, Solicitation,~~ and in the advertisement (if required by rule). when required by Rule .0316 of this Section.

~~(b)(e)~~ If only one ~~potential offeror~~ Vendor attends the mandatory conference or mandatory site visit, ~~the conference or site visit may continue to be conducted, but the solicitation shall be canceled immediately following the~~ Purchasing Agency may conduct or postpone the conference or site visit. If this occurs, the agency shall investigate why The Purchasing Agency shall review the Solicitation and factors set out in Rule .1401 of this Section to determine whether any Competition is available and why only one potential Vendor attended, offeror was in attendance and ascertain if there is any competition available. If it is determined that competition is available, the agency shall again attempt to obtain competition by following the rules of this Subchapter, unless otherwise permitted by rule. The Purchasing Agency may schedule another conference or site visit if it determines that Competition is available, and it would be in the best interest of the State. If it is determined that there is no competition Competition available, then the procurement Procurement may be handled as a subject to approval for a waiver of Competition as permitted by rule pursuant to Rule .1402 of this Section.

(c) The Purchasing Agency shall document details of the conference or site visit as part of the official Procurement records.

~~(d)~~ Any and all questions or Clarifications by a potential ~~offeror~~ Vendor regarding a ~~solicitation document~~ Solicitation shall be addressed to the ~~purchaser~~ Purchasing Agency named on the Solicitation document. Any and all revisions to the ~~solicitation document~~ Solicitation shall be made only by written addendum from the ~~purchaser~~ Purchasing Agency. ~~Verbal communications from whatever source are of no effect.~~

*Authority G.S. 143-52; 143-53.*

**SECTION .0500 - REJECTION OF OFFERS**

**01 NCAC 05B .0501 BASIS FOR REJECTION OR CANCELLATION OF OFFERS**

~~(a)~~ In soliciting offers, any and all offers received may be rejected in whole or in part. Basis for rejection shall include, but not be limited to, the offer being deemed unsatisfactory as to quantity, quality, delivery, price or service offered; the offer not complying with conditions of the procurement document or with the intent of the proposed contract; lack of competitiveness by reason of collusion or otherwise or knowledge that reasonably available competition was not received; error(s) in specifications or indication that revision(s) would be to the state's advantage; cancellation of or changes in the intended project or other determination that the proposed requirement is no longer needed; limitation or lack of available funds; circumstances which prevent determination of the lowest responsible or most advantageous offer; any determination that rejection would be to the best interest of the state.

(a) Any Offers received in response to a Solicitation may be rejected. The basis for rejection may include the following:

- (1) the Offer does not address the requirements in the Solicitation for bid regarding quantity, quality, delivery, price or service;

- (2) the Offer does not comply with the conditions set forth in the Solicitation for bid;
- (3) the Purchasing Agency determines there is a lack of Competition;
- (4) the Solicitation contains errors;
- (5) cancellation of or changes to the project reference in the Solicitation;
- (6) dual or similar Offers which prevent a Best Value Procurement to be determined; or
- (7) limitation or lack of available funds of the Purchasing Agency.

(b) Negotiation may be utilized if permitted by Rule .0503 of this Section.

(c) If all Offers are rejected, a Solicitation may be cancelled in its entirety or otherwise handled in accordance with the provisions of this Chapter.

*Authority G.S. 143-52; 143-53.*

#### **01 NCAC 05B .0502 PUBLIC RECORD**

*Authority G.S. 143-52; 143-53.*

#### **01 NCAC 05B .0503 NEGOTIATION**

~~If an agency does not receive a satisfactory offer in response to a solicitation and all offers are rejected, negotiations may be conducted with all known sources of supply that may be capable of satisfying the requirement, if it is determined by the agency that issued the solicitation document that soliciting offers again would serve no purpose. The negotiations shall be conducted by that agency if under their benchmark or delegation. Negotiations shall be conducted in writing and shall include standard language and terms and conditions issued by the Division of Purchase and Contract, unless otherwise provided by rule. If the negotiations are conducted with only one source or if only one source responds to the negotiations, the reason for lack of competition shall be documented in writing for public record. Negotiations may also be conducted under conditions that merit a waiver of competition, or in other situations that are advantageous as determined by the SPO.~~

(a) If the Purchasing Agency does not receive a Responsive Offer to a Solicitation and determines that soliciting Offers again would not yield a difference result, the Purchasing Agency may negotiate with Vendors in the Competitive Range or reject all Offers and negotiated with one or more sources of supply that may be capable of satisfying the requirement. Negotiations may also be conducted under conditions that merit a waiver of Competition pursuant to Rule .1401 of this Section.

(b) Negotiations shall be conducted by the Purchasing Agency if under its Bid Value Benchmark or General Delegation. A Purchasing Agency may request the participation of the Division in any Negotiation.

(c) Negotiations shall be memorialized by a mutually satisfactory document, executed by the parties and issued by the Division.

(d) All Negotiation results shall be documented in writing for public record.

*Authority G.S. 143-52; 143-53; 143-60.*

#### **SECTION .1100 - TERM CONTRACTS**

##### **01 NCAC 05B .1108 EXTENSION OF CONTRACT TERMINATION DATES**

When in the ~~public interest,~~ best interest of the State, Vendors ~~contractors~~ may be requested to extend the scheduled termination dates of contracts. Extensions shall not result in a change in the prices stated in the original contract unless agreed to by the Purchasing Agency in writing. Extensions that result in an annual contract value exceeding a Purchasing Agency's delegation must be submitted to the Division for approval based on the determining factors set forth in Rule .1102 of this Section.

*Authority G.S. 143-52; 143-49.*

#### **SECTION .1200 - PARTIAL AND MULTIPLE AWARDS**

##### **01 NCAC 05B .1201 USE**

~~(a) Partial, progressive or multiple awards may be made by reason of insufficient funds, legislative mandates, where it is advantageous to award separately by items or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service(s) or geographical areas.~~

~~(b) Notwithstanding the necessity for awards to more than one supplier in the case of some indefinite quantity contracts, such awards shall be limited to the number of suppliers deemed necessary to reasonably satisfy the intended requirements. Extreme care shall be exercised to protect the character and principles of competition. Quantities shall not be divided among companies on definite quantity requirements unless and except as provided in the procurement document.~~

(a) The Purchasing Agency may make a partial, multiple or Progressive award for the following reasons:

- (1) there are insufficient funds to make a full award;
- (2) a legislative mandate;
- (3) if the Purchasing Agency determines that it is in the best interests of the State to award separately by items; or
- (4) if more than one supplier is needed to meet the Specifications as to quantity, quality, delivery, services, or geographical areas as set forth in the Solicitation.

(b) Multiple awards shall be made consistent with the applicable provisions of G.S. 143-52.3(5).

*Authority G.S. 143-52.3; 143-53(6).*

#### **SECTION .1500 - MISCELLANEOUS PROVISIONS**

##### **01 NCAC 05B .1501 CONFIDENTIALITY**

*Authority G.S. 143-52; 143-53.*

##### **01 NCAC 05B .1507 CHANGE IN CORPORATE STRUCTURE**

Any Contract following an award to a Vendor are not instruments for sale and shall not be assigned. ~~In cases where contractors are~~ If a Vendor is involved in corporate consolidations, acquisitions

or mergers, the Purchasing Agency ~~agency which issued the solicitation document resulting in the contract~~ may negotiate agreements for the transfer of contractual obligations and the continuance of ~~contracts~~ Contracts if the Purchasing Agency determines that it is in the best interest of the State, ~~within the framework of the new corporate structures but with the understanding that the state's contracts are not instruments for sale and shall not be assigned.~~

*Authority G.S. 143-53.*

**01 NCAC 05B .1510 USE OF PURCHASING POWER FOR PRIVATE GAIN**

*Authority G.S. 143-53; 143-58.1.*

**01 NCAC 05B .1511 ANTITRUST VIOLATIONS ANTICOMPETITIVE, DECEPTIVE, AND FRAUDULENT PRACTICES**

~~In instances of identical offers or where there are otherwise indications of collusion, awards may be made in a manner intended to discourage or prevent its continuance as deemed to represent the state's best interest. Instances of suspected antitrust violation shall be reported to appropriate law enforcement authorities by the agency which issued the solicitation document.~~

(a) A Purchasing Agency shall act to prevent the continuance of anticompetitive, deceptive, or fraudulent practices. Anticompetitive practices include actions involving Vendors that restrain trade or commerce or eliminate Competition.

(b) Anticompetitive, deceptive, or fraudulent practices may be evidenced by one or more of the following:

- (1) conspiracy in restraint of trade or commerce;
- (2) combination bidding in restraint of trade or commerce;
- (3) price fixing which may include reliance upon an industry price list;
- (4) collusion;
- (5) identical bidding; or
- (6) agreements to:
  - (A) rotate Offers;
  - (B) share the profits with a Vendor who is not the low Vendor;
  - (C) sublet work in advance of bidding as a means of preventing Competition;
  - (D) refrain from bidding;
  - (E) submit prearranged Offers;
  - (F) submit complementary Offers;
  - (G) set up territories to restrict Competition;
  - (H) alternate bidding; or
  - (I) any other unlawful act in restraint of trade or commerce.

(c) Agency actions to discourage or prevent the continuance of anticompetitive, deceptive, or fraudulent practices may include the following:

- (1) rejecting the Vendor's Offer;
- (2) awarding a bid to a Vendor with a cost or technical proposal that is evaluated lower than the offending Vendor's proposal; and

- (3) recommending that the SPO debar a Vendor from doing business with the State in accordance with Rule .1520 of this Section.

(d) The Purchasing Agency shall report evidence of anticompetitive, deceptive or fraudulent practices to the Attorney General's office and any other appropriate law enforcement authority.

*Authority G.S. 143-53; 143-54.*

**01 NCAC 05B .1516 ADVERTISING**

~~No contract shall be used for any advertising by the contractor. No Vendor shall advertise or otherwise use any Contract for marketing purposes. A Vendor may only include the State on a listing of existing customers.~~

*Authority G.S. 143-53; 143-60.*

**01 NCAC 05B .1519 PROTEST PROCEDURES**

~~(a) To insure fairness to all offerors and to promote open competition, agencies and the Division of Purchase and Contract shall actively follow up and be consistent in responding to an offeror's protest over contract awards~~

~~(b) This Rule applies only to contracts with an actual or estimated dollar value over ten thousand dollars (\$10,000). Agencies may establish procedures to handle an offeror's concerns for contracts with less dollar value.~~

~~(c) When an offeror wants to protest a contract awarded by an agency over ten thousand dollars (\$10,000) in value, the agency and the offeror shall comply with the following:~~

- ~~(1) The offeror shall submit a written request for a protest meeting to the agency's executive officer which shall be received by the agency's executive officer's office within 30 consecutive calendar days from the date of the contract award. The executive officer shall furnish a copy of this letter to the SPO within five consecutive calendar days of receipt. The offeror's letter shall contain specific reasons and any supporting documentation for why it has a concern with the award. If the letter does not contain this information, or if the executive officer determines that a meeting would serve no purpose, then the executive officer may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request. A copy of the executive officer's letter shall be forwarded to the SPO.~~

- ~~(2) If the protest meeting is granted, the executive officer shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the executive officer shall respond to the offeror in writing with the executive officer's decision. A copy of the executive officer's letter shall be forwarded to the SPO.~~

- (3) ~~The agency shall notify the SPO in writing of any further administrative or judicial review of the contract award.~~
- (4) ~~The executive officer may appoint a designee to act on the executive officer's behalf under this Rule.~~

~~(d) When an offeror wants to protest a contract awarded by the Secretary over ten thousand dollars (\$10,000) in value, the SPO and the offeror shall comply with the following:~~

- ~~(1) The offeror shall submit a written request for a protest meeting to the SPO which shall be received by the Division within 30 consecutive calendar days from the date of the contract award. The offeror's letter shall contain specific reasons and any supporting documentation for why it has a concern with the award. If the letter does not contain this information, or if the SPO determines that a meeting would serve no purpose, then the SPO may, within 10 consecutive calendar days from the date of receipt of the letter, respond in writing to the offeror and refuse the protest meeting request.~~
- ~~(2) If the protest meeting is granted, the SPO shall attempt to schedule the meeting within 30 consecutive calendar days after receipt of the letter, or as soon as possible thereafter. Within 10 consecutive calendar days from the date of the protest meeting, the SPO shall respond to the offeror in writing with the SPO's decision.~~

~~(a) When a Vendor wants to protest a Contract awarded by a Purchasing Agency valued at less than the amount set forth in G.S. 143-53, the Purchasing Agency and Vendor shall comply with the following:~~

- ~~(1) The Vendor shall submit a written request for a protest meeting to the Agency's executive officer or his or her designee within 30 calendar day from the date of the Contract award. The executive officer shall furnish a copy of this letter to the SPO within five calendar days of receipt. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the executive officer determines that the protest is meritless so that a meeting would serve no purpose, then the executive officer may, within 10 calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request. A copy of the executive officer's decision letter shall be forwarded to the SPO.~~
- ~~(2) If the protest meeting is granted, the executive officer shall schedule the meeting within 30 calendar days after receipt of the request, or as soon as possible thereafter. Within 10 calendar days from the date of the protest meeting, the executive officer shall respond to the Vendor in writing with the executive officer's decision and~~

appeal rights. A copy of the executive officer's decision letter shall be forwarded to the SPO.

- (3) The Purchasing Agency shall notify the SPO in writing of any further administrative or judicial review of the Contract award.

(b) When a Vendor wants to protest a Contract awarded by the Secretary valued over the amount set forth in G.S. 143-53, the SPO and Vendor shall comply with the following:

- (1) The Vendor shall submit a written request for a protest meeting to the SPO within 30 calendar days from the date of the Contract award. The Vendor's request shall contain reasons why it has a concern with the award and any supporting documentation. If the request does not contain this information, or if the SPO determines that the protest is meritless so that a meeting would serve no purpose, then the SPO may, within 10 calendar days from the date of receipt of the request, respond in writing to the Vendor and refuse the protest meeting request.
- (2) If the protest meeting is granted, the SPO shall schedule the meeting within 30 calendar days after receipt of the request, or as soon as possible thereafter. Within 10 calendar days from the date of the protest meeting, the SPO shall respond to the Vendor in writing with the SPO's decision and appeal rights.
- (3) The SPO shall notify the Secretary of any further administrative or judicial review of the Contract award.

*Authority G.S. 150B-2; 150B-22; 150B-23; 143-53.*

#### **01 NCAC 05B .1520 DEFAULT PROCEEDINGS; DEBARMENT**

~~(a) The agency which issued the solicitation document resulting in the contract may find a contractor in default of contract for failing to perform in accordance with the contract requirements, terms and conditions. If a contractor is found in default of contract, the agency which issued the solicitation document resulting in the contract may take action, immediate if necessary, to purchase the needed commodities, printing or services on the open market and charge any additional cost for the commodities, printing or services and expense for doing so to the defaulting contractor. If an agency finds a contractor in default, such action and the circumstances shall be reported by the agency to the Division of Purchase and Contract in writing. This does not limit any other remedies that may be available to the State or agency.~~

(a) In addition to any civil or criminal remedies available to the State, the SPO may debar the Vendor from receiving an award under a State Contract or conducting future business with the State for up to a one year term in accordance with this Rule.

(b) Cause for initial or successive debarment may include:

- (1) deliberate failure without good cause to perform a Contract in accordance with the terms and conditions of the Contract;
- (2) substantiated or uncured complaints;
- (3) the Vendor or any officer, director, owner, project manager, Procurement manager or chief

financial officer is convicted under a State or Federal statute of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity which currently, seriously, and directly affects responsibility as a State Vendor;

- (4) the Vendor or any officer, director, or owner is debarred from bidding or contracting with the federal government;
- (5) conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals; and
- (6) violation of the State Government Ethics Act or the Lobbying laws.

~~(c)(b)– Upon finding cause to debar a Vendor, the SPO The Division may remove the contractor Vendor from any mailing distribution lists which may be utilized for up to a one year term, and debar the contractor from doing business with the agency, or any agency, for a period of time at the discretion of the Division.~~

(d) The SPO shall notify a Vendor of any debarment and appeal rights, in writing, which may include an Electronic form.

*Authority G.S. 143-49; 143-52; 143-53; 143-60; 143-64.b(c)(21); 143-746.*

#### **01 NCAC 05B .1521 FAITHFUL PERFORMANCE**

~~(a) A bond, or other suitable means of insuring faithful performance, may be required of the contractor at the contractor's expense.~~

~~(b) Liquidated damages, in the form of a monetary penalty for late delivery, may be provided for in the contract, as a means of ensuring faithful performance from the contractor.~~

A Solicitation and Contract may include terms ensuring a Vendor's performance such as:

- (1) a bond, or similar assurance;
- (2) liquidated damages;
- (3) a percentage of the Contract value held as a retainage;
- (4) withholding final payment contingent on acceptance of the final deliverable; and
- (5) any other provision which assures performance of the Vendor.

*Authority G.S. 143-52; 143-53.*

#### **01 NCAC 05B .1522 RECIPROCAL PREFERENCE**

~~(a) Each Solicitation document used to obtain contracts for equipment, materials, supplies, Goods and services Services that exceed twenty-five thousand dollars (\$25,000) in value thresholds mandated in G.S. 143-59(b) shall include space for a bidder to give their principal place of business address if it is different than the address given in the execution section of the solicitation document. Solicitation. This shall not prevent the agency Purchasing Agency that issued the solicitation document Solicitation from investigating this information and concluding that the principal place of business is different, according to their the Agency's interpretation of G.S. 143-59(c).~~

~~(b) A reciprocal preference shall not be used when procurements are being made Procurement are exempted under G.S. 143-53(a)(5) and G.S. 143-57. G.S. 143-59(d).~~

~~(c) For the purpose of this Section, a bidder and offeror, as well as bid and proposal, are interchangeable.~~

*Authority G.S. 143-59.*

### **SUBCHAPTER 05D - CONSULTANT CONTRACTS**

#### **SECTION .0200 - CONTRACTING PROCEDURE FOR CONSULTANTS**

##### **01 NCAC 05D .0209 RELATIONSHIP OF CONSULTANT TO STATE**

*Authority G.S. 143-64.21.*

### **TITLE 14B – DEPARTMENT OF PUBLIC SAFETY**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Alcoholic Beverage Control Commission intends to amend the rule cited as 14B NCAC 15B .1013.*

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

**Proposed Effective Date:** *October 1, 2019*

**Public Hearing:**

**Date:** *July 10, 2019*

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

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

**Reason for Proposed Action:** *To update allowable procedures for filing refund offer redemptions for spirituous liquor purchases to include filing electronically.*

**Comments may be submitted to:** *Walker Reagan, 400 East Tryon Road, Raleigh NC, 27601; phone (919) 779-8367; fax (919) 661-6165; email walker.reagan@abc.nc.gov*

**Comment period ends:** *August 13, 2019*

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required

## CHAPTER 15 - ALCOHOLIC BEVERAGE CONTROL COMMISSION

### SUBCHAPTER 15B - RETAIL BEER: WINE: MIXED BEVERAGES: BROWNBAGGING: ADVERTISING: SPECIAL PERMITS

#### SECTION .1000 - ADVERTISING

##### 14B NCAC 15B .1013 REFUND OFFERS

(a) General. Refund offers may be used to advertise spirituous liquor. Refund offers may be advertised by newspaper, magazine, direct mail, internet or other electronic means.

(b) Conditions. A refund offer is an offer to a ~~consumer~~ purchaser for a rebate of money or merchandise from a liquor industry member, obtained by mailing submitting a form. A refund offer is allowed under the following conditions:

- (1) A refund may be offered only by a manufacturer, importer, distiller, rectifier or bottler of spirituous liquor.
- (2) A refund may be offered only to purchasers of the manufacturer's original unopened container of liquor that is purchased from a local ABC store.
- (3) A refund may be offered ~~only~~ in any of the following ways:
  - (A) ~~when~~ When the redemption form is a part of or attached to the package or container, or when the forms are available on tear-off pads displayed in the store. Any offer that is a part of or attached to the package or container shall be placed there by the industry member who offers the refund.
  - (B) When the redemption form is part of an electronic refund procedure or software application made available by the industry member or its designated redemption agent.
- (4) The redemption form shall include a statement that the person redeeming the refund must be at least 21 years of age.
- ~~(4)(5)~~ A refund offer shall apply throughout the ~~state~~ State.
- ~~(5)(6)~~ A refund offer shall include an expiration date.
- ~~(6)(7)~~ A refund offer shall include a statement explaining the redemption procedure including

the expiration date and length of time before the refund is sent to the purchaser. Refund offers shall be redeemed by ~~mailing~~ submitting the redemption form to the industry member who offers the refund or its designated redemption agent, ~~agent~~ agent in the manner required by the industry member, either by mail or electronically. Such an agent shall not be a retail or wholesale permittee in the ~~state~~ State. ~~An industry member shall notify the commission~~ Commission at least 10 days before it offers a refund on liquor. The notice shall state the proposed amount of the refund, its expiration date, to whom redemption forms must be ~~mailed~~ submitted and the name, address and phone number of the redemption agent. The notice shall also include a sample of the redemption ~~form~~ form or the redemption procedure.

~~(8)(9)~~ An ABC A local board member or board employee shall not ~~receive refunds on offers obtained from liquor packages or containers before sale at retail.~~ submit a redemption form for a refund under this Rule except for lawful purchases of spirituous liquor the local board member or board employee has made.

(c) Commercial Bribery; Cooperative Advertising. No local ~~ABC~~ board member, board employee, retailer or retailer employee shall accept and no industry member shall pay any fee for the display or use of refund offers. The name of a retail business or retail permittee shall not appear on any refund offer.

(d) Advertising ~~Refund Offers.~~ Refund offers may be advertised by newspapers, magazines or direct mail but no redemption form may appear in such advertisement. Limits. No refund offer for liquor may be advertised on the premises of any retail permittee.

Authority G.S. 18B-100; 18B-105(b); 18B-207.

## TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

*Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10H .0905-.0907, .1101, .1104, .1107, .1301, .1302, readopt with substantive changes the rules cited as 15A NCAC 10H .0901, .0903, .0904, .1106, and repeal the rules cited as 15A NCAC 10H .1102, .1103, .1105, and .1108.*

*Pursuant to G.S. 150B-21.17, the Codifier has determined that publication of the complete text of the rules proposed for repeal is impractical. The text of the repealed rules is accessible on the OAH Website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** [www.ncwildlife.org](http://www.ncwildlife.org)

**Proposed Effective Date:** November 1, 2019

**Public Hearing:**

**Date:** June 19, 2019

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

**Location:** WRC Headquarters, 1751 Varsity Drive, Raleigh, NC 27606

**Reason for Proposed Action:** Pursuant to 150B-21.3A, the agency is required to review all existing rules on a schedule determined by the Rules Review Commission. These rules were updated as part of the review process and include technical and organizational changes. Additionally, several rules are proposed for repeal through readoption, with the substantive provisions of the proposed repealed rules being combined into other rules.

**Comments may be submitted to:** Rule-making Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email [regulations@ncwildlife.org](mailto:regulations@ncwildlife.org)

**Comment period ends:** August 2, 2019

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required

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

**SUBCHAPTER 10H - REGULATED ACTIVITIES**

**SECTION .0900 – GAME BIRD PROPAGATORS**

**15A NCAC 10H .0901 GAME BIRD PROPAGATION LICENSE**

(a) The game bird propagation license ~~authorizes~~ shall authorize the purchase, possession, propagation, sale, ~~transportation~~ ~~transportation, transfer,~~ and release of propagated upland game birds, except wild turkey, and migratory game birds and their eggs, subject to the following limitations and conditions:

- (1) The sale of dead pen-raised quail for food is governed by the regulations of the North Carolina Department of Agriculture; and
- (2) The purchase, possession, sale, transportation, and transfer of migratory game birds and their eggs is subject to additional requirements ~~contained~~ in Title 50 of the Code of Federal Regulations.
- (3) ~~No propagation license shall be issued for wild turkeys.~~

(b) Application for a game bird propagation license shall be made on a form available from the Commission at [www.ncwildlife.org](http://www.ncwildlife.org) or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Information required from the applicant shall include:

- (1) The applicant's name, mailing address, residence address, telephone number, and date of birth;
- (2) The facility site address;
- (3) Any organizational affiliation, if applicable; and
- (3) The species of animal to be propagated.

(c) The game bird propagation license shall be conspicuously posted and displayed at the propagation facility at all times.

Authority G.S. 106-549.94; 113-134; 113-273; 50 C.F.R., Part 21.

**15A NCAC 10H .0903 ACQUISITION OF GAME BIRDS OR GAME BIRD EGGS**

~~(a) A game bird propagator license under this Section propagation license holder shall not take no game birds or game bird eggs from the wild for the purpose of propagation or sale, sale, but~~  
**(b) License holders** may purchase or acquire live game birds, ~~or the eggs thereof, birds or game bird eggs from any other licensed game bird propagator.~~ propagators. Upon such acquisition, he  
**(c) The license holder** shall obtain ~~a copy of~~ a receipt or other written evidence of the transaction showing the date, ~~the names~~ names, and license numbers of both ~~parties, and parties as well as~~ the species and quantity of the game ~~birds, or eggs, so birds or~~ game bird eggs acquired. This receipt shall be retained by the ~~licensee as part of his records~~ license holder as provided by Rule .0906 of this Section.

Authority G.S. 113-134; 113-273.

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

~~(a) Diseased Birds. No game bird propagator licensed under this Section shall~~ It shall be unlawful for a game bird propagation license holder to knowingly sell or otherwise transfer possession of any live game bird that shows evidence of ~~any~~ a communicable disease, except ~~that such transfer may be made for transfers~~ to a veterinarian or pathologist for examination and ~~diagnosis.~~ diagnostic purposes. Disposition of any game bird ~~having with~~ a communicable disease ~~in a manner~~ not likely to infect wild game bird populations ~~is~~ shall be the responsibility of the ~~licensee.~~ license holder.

(b) Sale of Live Birds or Eggs. Subject to the limitations set forth in Rule .0901 of this Section, any ~~healthy~~ game birds ~~which that~~ are authorized to be propagated under this Section, or the eggs thereof, may be sold or transferred alive by ~~any a~~ licensed game bird propagator to ~~any other another~~ licensed game bird propagator. ~~propagator or~~ Licensed game bird propagators may also sell or transfer healthy live game birds to licensed controlled shooting preserve operators ~~operator~~ or to any person ~~who that~~ holds a valid state license or permit ~~to possess the same. that~~ authorizes possession.

(c) Receipt Required. Upon ~~any such~~ sale or transfer, a written receipt or other written evidence of the transaction shall be prepared in duplicate showing the date, the names and license or permit numbers of both parties, and the species and quantity of the game birds or game bird eggs transferred. A copy of ~~such the~~ receipt ~~or writing~~ shall be retained by each of the parties ~~as a part of his records~~ as provided by Rule .0906 of this Section.

(d) Bird Marking. Any live migratory waterfowl sold or transferred to any person for use in training retrievers or conducting retriever trials ~~must shall~~ be marked by one of the methods provided by ~~50 C.F.R. 21.13. 50 CFR 21.13.~~ ~~Each pheasant~~ All other domestically raised game birds sold or transferred for ~~such the same~~ purposes ~~shall be banded prior to the transfer with a metal leg band which is~~ shall be individually marked on one leg with a band imprinted with the number of the propagator's license. license number.

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

- (1) Sale Direct to Consumer. Unprocessed dead game birds may be sold directly to a consumer when accompanied by a receipt showing the name of the consumer, the name and license number of the propagator, and the quantity and species of the game birds sold. A copy of ~~such the~~ receipt shall be retained by the ~~propagator as part of his records.~~ propagator for at least one year after the transaction. ~~No such bird shall be resold by any such consumer. It shall be unlawful for the consumer to resell unprocessed dead game birds.~~

- (2) Sale to or Through a Processor.
  - (A) Unprocessed dead Game game birds may be sold to ~~any a~~ commercial food processor ~~who that~~ holds a permit to possess ~~them or delivered~~ transferred to ~~such a~~ commercial food processor for processing and packaging prior to sale. ~~In either case, the transfer~~ Sale or transfer shall be evidenced by a ~~duplicate receipt~~ written receipt retained by each party for a year after

the sale or transfer, that includes the following information:

- (i) identifying the processor by the processor's name and permit number and number;
- (ii) the propagator by propagator's name and license number, number; and
- (iii) indicating the number and species of game birds transferred, sold or transferred. A copy of such receipt shall be retained by each of the parties as part of his records.

(B) The processed carcasses of the birds Game bird carcasses processed by a commercial food processor for wholesale or retail sale shall be enclosed in a wrapper or container marked with the following:

- (i) the number and species of game birds contained;
- (ii) the license number of the propagator; and
- (iii) the words "domestically raised".

~~on the outside of which is indicated the number and species of birds contained, the license number of the propagator, and the fact that such birds were domestically raised. When so packaged, such processed game birds may be sold at wholesale or at retail through ordinary channels of commerce.~~

~~This Paragraph does not apply to dead quail marketed for food purposes under the regulations of the North Carolina Department of Agriculture.~~

- (3) ~~The eggs of propagated game birds may Propagated game bird eggs shall not be sold for food or food purposes.~~

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

## 15A NCAC 10H .0905 TRANSPORTATION

(a) Live Game Birds or Game Bird Eggs

- (1) Private Carriers. Live propagated game birds or ~~the eggs thereof game bird eggs~~ may be transported by private carrier when accompanied by a copy of ~~the~~ receipt ~~required by specified in Rule Rules .0903 or Rule .0904(b) or (e)(2) .0904~~ of this Section.
- (2) Common Carriers. When live propagated game birds or ~~the eggs thereof game bird eggs~~ are transported by common carrier, each separate container shall be tagged or labeled ~~to show with~~ the name, ~~address~~ address, and license number of the shipping ~~propagator, propagator;~~ the name, ~~address~~ address, and license or permit

number of the ~~consignee~~, consignee; and the number and species of game birds or game bird eggs contained therein.

(b) Dead Game Birds

- (1) Private Consumers. Unprocessed dead game birds may be transported by consumers or hunters when accompanied by a ~~copy of the~~ receipt from a licensed game bird propagator required by Rule ~~.0904(e)(1)~~ .0904(e)(1) of this Section or by a copy of the receipt from a controlled shooting preserve operator as required by 15A NCAC 10H .0105.
- (2) Processed Game Birds. The carcasses of processed propagated game birds other than quail may be transported in any manner when packaged in a wrapper or container marked as required by Rule ~~.0904(e)(2)~~ .0904(e)(2) of this Section.

*Authority G.S. 113-134; 113-273.*

**15A NCAC 10H .0906 RECORDS**

~~Each licensed (a) Licensed game bird propagator propagators shall maintain a chronological file of receipts by calendar-year or copies thereof showing with the following information:~~

- (1) ~~The dates and sources of acquisition of game birds and their eggs and game bird eggs;~~
- (2) ~~the The species and quantities thereof of the game birds and game bird eggs, as required by Rule .0903 of this Section; Section; and~~
- (3) ~~a chronological file of copies of receipts Receipts showing all transfers of propagated game birds, except dead quail sold for food purposes, and their game bird eggs as required by Rule .0904 of this Section.~~

~~Such records shall be segregated as to each license year,~~

~~(b) Records shall be made available for inspection by any authorized agent at the request of the Wildlife Resources Commission, and Commission.~~

~~(c) Records shall be retained for at least one year following the close of the license year to which they pertain.~~

*Authority G.S. 113-134; 113-273.*

**15A NCAC 10H .0907 QUAIL CALL-PEN TRAPS**

~~Any licensed game bird propagator who raises quail and who wishes to release live pen-raised quail on his premises for dog training purposes may use quail call pen traps for the purpose of recovering such quail subject to the following restrictions: Licensed game bird propagators that raise and release pen-raised quail on his or her property for dog training shall be authorized to use quail call-pen traps to recover released quail, subject to the following requirements:~~

- (1) All traps shall have a weather-resistant permanent tag attached with the propagator's name and address written ~~legibly on it;~~ legibly;
- (2) No ~~such~~ trap shall be located ~~with~~ within 100 yards of any ~~outside~~ boundary of the ~~premises;~~ property; and

~~(3) All quail released for dog training shall be banded; and~~

~~(4)(3) No trapped, unbanded quail caught in any such trap shall be retained.~~

*Authority G.S. 113-134; 113-273; 113-291.1.*

**SECTION .1100 - FURBEARER PROPAGATION**

**15A NCAC 10H .1101 APPLICATION FOR LICENSE FURBEARER PROPAGATION LICENSE**

~~Application for a license to propagate any species of furbearing animal or red foxes (Vulpes vulpes, including all color phases) for use as fur shall be made to the Wildlife Resources Commission on a form which is available from the Commission upon request. All pertinent information required on the application form shall be filled in to include the nature and name of the applying entity, mailing address, telephone number, species of animal to be propagated, and physical location of the propagation facility. The application must be accompanied by the annual license fee in the amount of twenty five dollars (\$25.00) and mailed or otherwise delivered to the Wildlife Resources Commission, 512 N. Salisbury Street, Raleigh, North Carolina 27611.~~

(a) The furbearer propagation license shall authorize the propagation of furbearing animals and red foxes, including all color phases, for use as fur. Furbearer propagation license holders shall be authorized to do the following:

- (1) Breed the species of animal designated on the license;
- (2) Acquire live specimens authorized on the license from permitted ranch-raised breeding stock;
- (3) Raise live specimens for the production of marketable fur;
- (4) Sell domestically produced fur to a licensed fur dealer; and
- (5) Buy and sell live specimens from or to a furbearer propagation license holder, a captivity license holder, or a licensed non-resident producer of ranch-raised breeding stock.

(b) Application for a furbearer propagation license shall be made on a form available from the Commission at [www.ncwildlife.org](http://www.ncwildlife.org) or at the Commission headquarters located at 1751 Varsity Drive, Raleigh, NC 27606-2576. Information required from the applicant shall include:

- (1) The applicant's name;
- (2) The applicant's residence or mailing address;
- (3) The physical address of the propagation facility;
- (4) The applicant's telephone number; and
- (5) The species of animal to be propagated.

(c) The furbearer propagation license shall be conspicuously posted at the propagation facility at all times.

*Authority G.S. 113-134; 113-273.*

**15A NCAC 10H .1102 LICENSE AUTHORIZATION**

The furbearer propagation license authorizes the breeding of the species designated thereon, the acquisition of live specimens obtained from lawful sources, the raising of same to maturity for the production of marketable fur, and the selling of domestically produced furs to licensed fur dealers. The furbearer propagation license authorizes the buying and selling of live specimens of the animals from or to a holder of either a furbearer propagation license or a captivity license.

Authority G.S. 113-134; 113-273.

**15A NCAC 10H .1103 POSTING AND DISPLAY OF LICENSE**

The furbearer propagation license shall be conspicuously posted and displayed at the propagation facility at all times during which the facility is in use for the propagation of furbearers.

Authority G.S. 113-134; 113-273.

**15A NCAC 10H .1104 CAGES MINIMUM STANDARDS FOR CAGING AND CARE**

(a) ~~Types of Cages.~~ Cages for holding the animals being propagated shall be of two types:

~~(1)(a)~~ Breeder cages shall be used to hold a pair of animals for breeding and to hold the female and her litter from the time the litter is born until weaning;

~~(2)(b)~~ Pelter cages shall only be used ~~only~~ to hold single animals.

~~(b)(c)~~ ~~Sizes of Cages.~~ The minimum dimensions of cages in depth (d), width ~~(w)~~(w), and height (h) measured in feet shall be as follows depending on the species of animals being held:

| SPECIES | BREEDER CAGE<br>(d x w x h)            | PELTER CAGE<br>(d x w x h)               |
|---------|--|--|
| Beaver  | 3 x 6 x 2.5                            | 3 x 4 x 2.5                              |
| Bobcat  | 3 x 6 x 2.5                            | 3 x 4 x 2.5                              |
| Fox     | <del>3 x 6 x 2.5</del> 5.0 x 3.0 x 3.0 | <del>2.5 x 4 x 2.5</del> 2.5 x 3.0 x 3.0 |
| Mink    | <del>2 x 3 x 1.5</del> 2.0 x 0.8 x 1.0 | <del>2 x 2 x 1.5</del> 2.0 x 0.5 x 1.0   |
| Nutria  | 3 x 3 x 2.0                            | 3 x 2 x 2.0                              |
| Opossum | 3 x 3 x 2.0                            | 3 x 2 x 2.0                              |
| Otter   | 3 x 5 x 1.5                            | 3 x 3 x 1.5                              |
| Raccoon | 3 x 4 x 2.0                            | 3 x 2 x 2.0                              |
| Skunk   | 3 x 3 x 1.5                            | 3 x 2 x 1.5                              |
| Weasel  | 2 x 2 x 1.5                            | 1 x 2 x 1.5                              |

~~(e) Cage Construction.~~ The cages must be sturdily constructed of appropriate materials sufficient to retain the animals without tethers or chains, which may be used to restrain the animals only during the transfer of the animals from one cage to another. Cages must be provided with den areas in which the animals can retire from view and which are large enough to permit the animals to turn around and lie down.

~~(d) Cage Arrangement.~~ All cages must be maintained within a larger escape proof enclosure that must also be designed to prevent access by domestic dogs and cats. The cages must provide protection of the animals from excess exposure to the sun and inclement weather. The cages must be solidly based at least two feet above ground or floor level to facilitate cleaning.

~~(d) Each license holder shall comply with the following general cage requirements:~~

- ~~(1) cages shall be constructed of non-toxic, corrosion-resistant materials sufficient to retain animals without tethers or chains;~~
- ~~(2) cages shall have a den area large enough for all the animals in that cage to turn around and lie down;~~
- ~~(3) cages shall be housed in an area that provides protection from direct sunlight, precipitation, wind, and other weather conditions;~~
- ~~(4) cages shall be designed to minimize extreme heat build-up and provide sufficient light to maintain the animal's circadian rhythms;~~

~~(5) caging shall be ventilated;~~

~~(6) cages shall be solidly based at least two feet above ground or floor level to facilitate cleaning;~~

~~(7) cages shall be arranged in rows to allow visual and physical inspection of all areas and all species and to allow space for operations and cleaning; and~~

~~(8) a perimeter fence shall be maintained around the housing area and shall include a dig barrier designed to prevent escape and access by domestic and wild animals.~~

~~(e) Each license holder shall comply with the following general care requirements:~~

- ~~(1) water: clean drinking water shall be provided. All pools, tanks, water areas, and water containers provided for swimming, wading, or drinking shall be clean. Enclosures shall provide drainage for surface water and runoff;~~
- ~~(2) sanitation: water disposal and waste disposal shall be in accordance with all applicable local, State, and federal laws.~~
- ~~(3) food: food shall be of a type and quantity that is appropriate for the particular species and shall be provided in an unspoiled and uncontaminated condition; and~~

- (4) waste: fecal and food waste shall be removed from inside, under, and around enclosures and disposed of in a manner that prevents noxious odors or pests
- (5) ectoparasites: a program for the control of ectoparasites and vermin shall be established and maintained. Methods to control insects shall be employed and only EPA approved insecticides shall be used. Biological pest control methods may be used where appropriate.

*Authority G.S. 113-134; 113-273.*

#### **15A NCAC 10H .1105 SANITATION AND CARE**

~~Clean water must be made available to the animals at all times. Fresh food shall be provided daily. An effective program for control of insects, ectoparasites, and odor shall be established and maintained.~~

*Authority G.S. 113-134; 113-273.*

#### **15A NCAC 10H .1106 HUMANE TREATMENT**

~~No act or omission shall be allowed to occur nor any circumstance to continue which shall result in the infliction of unnecessary harassment or physical discomfort on any furbearing animals or foxes. Animals shall be observed daily for signs of poor health or injury. Animals that are visibly sick, injured, in pain or suffering shall be provided prompt medical care or euthanized as soon as possible. The killing euthanization of the animal in preparation for marketing the fur shall be by a method which is quick and effective to the end that the animal is not subjected to prolonged harassment or physical abuse, designed to cause minimal distress and pain as well as rapid, irreversible loss of consciousness and cardiac arrest. The license holder shall confirm death by ensuring respiration has ceased.~~

*Authority G.S. 113-134; 113-273.*

#### **15A NCAC 10H .1107 RECORDS AND INSPECTIONS**

~~(a) The licensee Furbearer propagation license holders shall maintain accurate records reflecting records containing the following information:~~

- (1) ~~the numbers and species of furbearing animals or foxes acquired; acquired;~~
- (2) ~~the dates and sources of acquisition; acquisition;~~
- (3) ~~the numbers of animals produced by breeding and the numbers successfully raised for market; market; and~~
- (4) ~~the numbers of animals or pelts sold or otherwise disposed of of, together with the dates of disposition disposition, and the identities of the recipients; recipients, if sold alive.~~

~~Such records shall be maintained on a calendar year basis concurrent with the license year and shall be retained on the licensed premises for at least one year following the year to which they pertain.~~

~~(b) The records required by this Rule shall be maintained by calendar-year and shall be retained for at least one year following the end of the calendar year to which they pertain. The records required pursuant to this rule shall be available for inspection at the request of the Commission.~~

~~(c) Representatives of the Commission shall be permitted to enter the premises of a license holder's furbearer propagation facility upon request or during business hours for inspection, enforcement, or scientific purposes.~~

*Authority G.S. 113-134; 113-273.*

#### **15A NCAC 10H .1108 INSPECTIONS**

~~The records required by Rule .1107 of this Section and the physical facilities of the licensee shall be made available for inspection by authorized agents of the Wildlife Resources Commission at any time during business hours.~~

*Authority G.S. 113-134; 113-273.*

### **SECTION .1300 – REPTILES AND AMPHIBIANS**

#### **15A NCAC 10H .1301 COMMERCIAL TAKE OF CERTAIN TURTLES AND TERRAPINS PROHIBITED**

~~(a) For the purposes of this Rule, "commercial taking" means the taking, possession, collection, transportation, purchase or sale of five or more individual turtles or any turtle part, per person in a calendar year. It is unlawful to engage in the commercial taking of any native turtle or terrapin species in the families Emydidae or Trionychidae, except the public may obtain possession permits from the Wildlife Resources Commission for possession, transportation, purchase or sale of these turtles and terrapins as described pursuant to Rule .1302 of this Section.~~

~~(b) For purposes of this Rule, "commercial taking" is defined as the taking, possession, collection, transportation, purchase or sale of five or more individual turtles or terrapins, or any part thereof, per person in any given year. It shall be unlawful to engage in the commercial taking of any native turtle species in the families Emydidae or Trionychidae.~~

~~(c) The prohibition on collection in this Rule shall not apply to the following:~~

- (1) A licensed veterinarian when holding for purposes of medical treatment;
- (2) A holder of a valid ~~rehabilitation~~ captivity permit for the purposes of rehabilitation;
- (3) A publicly-financed zoo, scientific research facility or institution of higher education, or any state or federal agency;
- (4) Any person who accidentally collects five or more turtles ~~or terrapins~~ incidental to any lawful activity, and who immediately returns them to the wild; or
- (5) Property owners who legally apply for and receive depredation permits from the Wildlife Resources Commission, or one of its Wildlife Damage Control Agents.

~~(d) Any person who was in lawful possession of five or more native turtles or terrapins in aggregate at the time of the effective date of this Rule shall apply for a possession permit to retain them.~~

~~The permit to retain these animals shall be applied for before January 1, 2008. No native turtles or terrapins turtle shall be purchased or sold without a permit. Permittees are subject to all requirements and conditions described in Rule .1302 of this Section, sold, except snapping turtles (Chelydra serpentina) with a curved carapace length of 11 inches or greater.~~

(e) Violators are subject to a replacement cost per individual turtle that shall equal the replacement cost for "species with no open season" as set forth in 15A NCAC 10B.0117(c) until such time as replacement costs for each genus of turtle in these families is established by the Wildlife Resources Commission.

*Authority G.S. 113-333(a)(6).*

### **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~~ shall not be 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.~~ species.

(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.

(d) 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.

(e) The sale of native turtles shall be unlawful, except for snapping turtles (Chelydra serpentina) with a curved carapace length of 11 inches or greater.

~~(d)(f) Denial of possession permits. Circumstances for which, and persons to whom a~~ A possession permit shall not be issued ~~include: for:~~

- (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) 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~~ collecting 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~~ collecting 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~~ individuals 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~~ individuals 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:~~ resources:

- (A) 25 or more individuals of any combination of native amphibian species; or
- (B) five or more individuals of native reptile species.

(e)(g) Term of Permit. The permit shall be valid from January 1 through December 31 of the applicable year.

~~(f)(h) Reports on Permitted Animals. Each individual~~ Individuals permitted under this Rule shall submit a report to the Wildlife Resources Commission within 15 days following the date of ~~expiration of the permit.~~ permit expiration. The report shall ~~show~~ contain 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(e), 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.~~

*Authority G.S. 113-274(c)(1c).*

\* \* \* \* \*

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to amend the rule cited as 15A NCAC 18A .2816.*

**Link to agency website pursuant to G.S. 150B-19.1(c):**  
<https://cph.publichealth.nc.gov/>

**Proposed Effective Date:** *October 1, 2019*

**Public Hearing:**

**Date:** *June 24, 2019*

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

**Location:** *Cardinal Conference Room, located at 5605 Six Forks Road, Raleigh, NC 27609*

**Reason for Proposed Action:** *Child care centers serve young children who are especially vulnerable to the negative effects of lead exposure. Currently, there is no requirement for child care centers served by public water systems to investigate the presence of lead in their water at the point of use. The proposed rule amendment requires that child care centers periodically test for lead in water from outlets used for drinking and food preparation and mitigate if testing reveals lead concentrations above the lead hazard level.*

**Comments may be submitted to:** *Virginia Niehaus, Rulemaking Coordinator, 1931 Mail Service Center, Raleigh, NC 27699-1931; phone (919) 707-5006; email cphcomment@lists.ncmail.net*

**Comment period ends:** *August 2, 2019*

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☒ State funds affected
- ☒ Local funds affected
- ☒ Substantial economic impact ( $\geq$  \$1,000,000)
- ☒ Approved by OSBM
- ☐ No fiscal note required

**CHAPTER 18 - ENVIRONMENTAL HEALTH**

**SUBCHAPTER 18A - SANITATION**

**SECTION .2800 - SANITATION OF CHILD CARE CENTERS**

**15A NCAC 18A .2816 LEAD POISONING HAZARDS IN CHILD CARE CENTERS**

(a) In child care centers, areas accessible to children shall be free of identified lead poisoning hazards as defined under G.S. 130A-131.7(7).

(b) The following actions shall be taken to ensure that drinking water in child care centers is free of identified lead poisoning hazards as defined under G.S. 130A-131.7(7)(g).

- (1) Child care operators, as defined under G.S. 110-86(7), shall test, at least once every three years, all water outlets used for drinking or food preparation. Samples shall also be collected and tested within 30 calendar days of completion of any renovations or repairs that may impact the facility's drinking water infrastructure, such as repair or replacement of all or part of drinking water service lines or faucets. The operator shall provide documentation of testing results for review by the Department of Health and Human Services (Department) during each unannounced routine sanitation inspection under Rule .2834(b) of this Section.
- (2) For centers that submit an application for licensure after the effective date of this Rule, initial samples shall be collected by the child care operator and tested in accordance with Subparagraph (b)(4) of this Rule during the license application process, in accordance with 10A NCAC 09 .0302(b).
- (3) For all other centers, initial samples shall be collected by the child care operator and tested in accordance with Subparagraph (b)(4) of this Rule within one year of the effective date of this Rule.
- (4) Samples shall be collected and tested in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is incorporated by reference with subsequent changes or amendments and available free of charge at <https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities>. Notwithstanding the foregoing guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.
- (5) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission in accordance with G.S. 130A-131.8.
- (6) When a child care center receives test results from a laboratory indicating that a water sample collected by the child care operator contains a lead concentration at or above the lead



poisoning hazard level defined in G.S. 130A-131.7(7)(g), the child care operator shall immediately:

- (A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level; and
  - (B) ensure that all children and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food preparation.
- (7) When notified of a water lead level at or above the lead poisoning hazard level, the Department shall conduct sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level within seven calendar days of notification.
  - (8) If a water sample collected by the Department reveals a water lead level at or above the lead poisoning hazard level, the child care operator shall continue to restrict access to water outlet(s) and provide alternate water as set out in Subparagraph (b)(6) of this Rule until the Department determines the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the child care operator and the Division of Child Development and Early Education in writing of this determination.
  - (9) Failure to comply with Paragraph (a) of this Rule or any one or more components of this Paragraph shall be deemed a violation of this Rule subject to demerits under Rule .2834(c)(20) of this Section.
  - (10) Within three business days of receiving the test results of the Department's water analysis that indicate a water lead level at or above the lead poisoning hazard level, the child care operator shall provide written notification of the test results to the parents or legal guardians of the children attending the child care center and the staff of the child care center, in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(4) of this Rule.
  - (11) Within five business days of receiving the test results of the Department's water analysis that indicate a water lead level at or above the lead poisoning hazard level, the child care operator shall make the test results available to the public, free of charge. The child care operator may post test results to the child care center's website to satisfy the requirement to make the test results available to the public.

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

### **CHAPTER 40 - STATE BOARD OF OPTICIANS**

*Notice is hereby given in accordance with G.S. 150B-21.2 that the State Board of Opticians intends to adopt the rule cited as 21 NCAC 40 .0325, amend the rules cited as 21 NCAC 40 .0101, .0104, .0109, .0209, .0212, .0302, .0303, .0314, .0319-.0321, .0323, and repeal the rule cited as 21 NCAC 40 .0108.*

*Pursuant to G.S. 150B-21.17, the Codifier has determined that publication of the complete text of the rules proposed for repeal is impractical. The text of the repealed rules is accessible on the OAH Website: <http://reports.oah.state.nc.us/ncac.asp>.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** [www.ncopticiansboard.org](http://www.ncopticiansboard.org)

**Proposed Effective Date:** *October 1, 2019*

**Public Hearing:**

**Date:** *June 19, 2019*

**Time:** *1:00 pm*

**Location:** *3809 Computer Drive Raleigh, NC 27609*

**Reason for Proposed Action:**

- 21 NCAC 40 .0101 - Updates the current address of the Board.*
- 21 NCAC 40 .0104 - Clarifies the types of applications that may be requested from the Board office and that applications must be received by the Board on or before the application deadline.*
- 21 NACA 40 .0108 - GS 90-246 was amended to set the exact amount of fees to be charged, rendering the rule redundant and subject to repeal.*
- 21 NCAC 40 .0109 - Eliminates requirement that Election Committee be comprised of Board members.*
- 21 NCAC 40 .0209 - Clarifies that optician in charge shall display his or her registration conspicuously in the optical places of business where he or she accepts responsibility.*
- 21 NCAC 40 .0212 - Updates the referenced statutory citation to accurately reflect the correct citation.*
- 21 NCAC 40 .0302 - Eliminates practice of applying a paid fee toward a future examination, if the licensee fails to take the examination for which the fee was paid.*
- 21 NCAC 40 .0303 - Amends the process by which examinations are administered, taken, and deemed passed; eliminates the process by which taken exams may be reviewed.*
- 21 NCAC 40 .0314 - Reduces the minimum hours of work required per week for the apprenticeship period.*
- 21 NCAC 40 .0319 - Establishes the deadline by which the applicant must register for his or her internship following notification from the Board concerning the applicant's licensure eligibility.*
- 21 NCAC 40 .0320 - Establishes process by which licensee may obtain inactive status and return to active status from inactive status.*

*Authority G.S. 110-91; 130A-131.5; 130A-131.7(7); 130A-131.8.*

21 NCAC 40 .0321 - Eliminates notarization requirement from application for licensees who wish to train an apprentice or intern.

21 NCAC 40 .0323 - Eliminates notarization requirement from Board applications.

21 NCAC 40 .0325 - Implement the requirements of GS 93B-15.1 related to military-trained applicants and military spouses.

**Comments may be submitted to:** Sue Hodgins, North Carolina State Board of Opticians, PO Box 6758, Raleigh, NC 27628-6758; phone (919) 420-1390; fax (919) 420-1361; email shodgin@ncopticiansboard.org

**Comment period ends:** August 2, 2019

**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. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact ( $\geq \$1,000,000$ )
- ☐ Approved by OSBM
- ☒ No fiscal note required

## SECTION .0100 - LOCATION

### 21 NCAC 40 .0101 LOCATION AND FUNCTION

The Board is physically located at ~~222 North Person Street, 3809 Computer Drive, Raleigh, North Carolina 27604, 27609.~~ Its mailing address is Post Office Box ~~25336, 6758, Raleigh, North Carolina 27611-5336, 27628-6758.~~ The State Board of Opticians is created and operated pursuant to Article 17, Chapter 90, of the General Statutes of North Carolina for the purpose of regulating the training, education, examination and practice of dispensing opticians. Its functions include the following:

- (1) monitoring the location and activities of apprentices, interns, licensees and places where dispensing takes place;
- (2) examining applicants for licenses with and without examination; and
- (3) investigating and prosecuting complaints against licensees and unlicensed persons.

Authority G.S. 90-239.

### 21 NCAC 40 .0104 INFORMATION AND APPLICATION

(a) Any person desiring to become a North Carolina licensed optician may obtain information on licensure and an application form by download from the Board webpage. Application forms must be completed in order to be considered for licensure by waiver of the examination, or to sit for the licensure examination. (b) Any person not able to download licensure information, or the licensure or examination application, or training or renewal application, may request that the Board office mail the materials which the Board will subsequently mail to the requesting person. (c) When submitting an application for licensure or examination, the applicant shall submit all applicable fees as set ~~out in 21 NCAC 40 .0108.~~ forth in G.S. 90-246. Additionally, the applicant shall provide:

- (1) information, including an affirmation regarding whether the applicant has violated G.S. 90, Article 17, or Title 21, Chapter 40, of the North Carolina Administrative Code, or been convicted of a felony or ~~misdemeanor~~, misdemeanor;
  - (2) information as to whether the applicant has been named as a defendant or respondent to a lawsuit involving fraud, deceit, or misrepresentation; malpractice, unethical conduct, gross negligence, or gross ~~misconduct~~, misconduct; and
  - (3) the applicant's age.
- (d) Additionally, the applicant shall include the following when submitting the application:
- (1) evidence of qualifications to comply with G.S. 90-237 or G.S. 90-241, whichever ~~applicable~~, applicable; and
  - (2) a passport-size photograph taken within six months of the date the application is submitted to the Board.

(e) Applications of any type must be received by the Board on or before any stated or printed deadline.

Authority G.S. 90-237; 90-239; 90-240; 90-249(6); 90-249.1(a)(8).

### 21 NCAC 40 .0108 FEES

Authority G.S. 90-246; 90-249(a)(9).

### 21 NCAC 40 .0109 ELECTION OF MEMBERS

(a) Optician/licensee appointments to the Board are selected by election and gubernatorial appointment. By April 1 of each year, any licensed optician desiring his or her name to be placed in nomination shall forward a petition endorsed by five licensees to the Board.

(b) By April 10 of each year, the Board of Opticians shall prepare and distribute by mail to each North Carolina licensee eligible to vote:

- (1) a notice of the election, its dates and method of ~~participation~~, participation;

- (2) the name of each ~~nominee~~, nominee;
- (3) biographical information on each ~~nominee~~, nominee;
- (4) a ~~ballot~~, ballot; and
- (5) a return envelope.

(c) The return envelope containing the ballot shall be postmarked no later than April 30. The enclosed ballot will not be valid unless the optician's signature, license number, and correct mailing address are on the left top corner of the return envelope.

(d) The Board Chair shall appoint an Election Committee of at least three ~~Board~~ members, who shall not be nominees. The Election Committee shall review all ballots that have been determined valid based on this Rule, and count all the valid ballots.

(e) Based upon the canvass by the Election Committee, the Board Chair shall submit to the Governor a list of three nominees which shall be listed from highest to lowest votes and percentages received for each nominee.

(f) The Governor shall complete the appointment process based on G.S. 90-238.

*Authority G.S. 90-238.*

## **SECTION .0200 - CONDUCT OF REGISTRANTS**

### **21 NCAC 40 .0209      DISPLAY OF REGISTRATION AND LICENSE**

(a) Each registered optical place of business or training establishment shall display its registration certificate in a conspicuous and public area of the principal place of business.

(b) Each optician in charge shall display his or her registration certificate in a conspicuous and public part of the optical place of business for which he or she accepts responsibility.

~~(b)(c)~~ Each apprentice and intern shall display his or her registration certificate in a conspicuous and public part of the training establishment wherein he or she is engaged as a trainee.

~~(c)(d)~~ Each optician to whom a license has been granted shall display his or her license and current renewal seal in a conspicuous and public part of the office or establishment wherein he or she is engaged as a dispensing optician.

*Authority G.S. 90-244.*

### **21 NCAC 40 .0212      DUTY TO PROVIDE DIRECT SUPERVISION**

The failure of an optical place of business or a licensed optician, who owns or has a controlling interest in an optical place of business or under whose name an optical place of business or branch thereof is registered, to provide direct supervision of an unlicensed person working at such business or branch and performing acts constituting the practice of opticianry shall constitute a violation of G.S. 90-249.1(a)(2).

*Authority G.S. 90-239; 90-249.1(a)(2); 90-253.*

## **SECTION .0300 - QUALIFICATIONS: APPLICATIONS: AND LICENSING**

### **21 NCAC 40 .0302      LICENSURE EXAMINATION FEES**

(a) The full fee for licensure examination ~~participation~~ eligibility determination shall be remitted to the Board by cash, certified check or money order. There shall be no prorating of the fee.

~~(b) The full fee shall be paid for each examination date in which an applicant participates; there shall be no prorating of the fee.~~

~~(c)(b)~~ Licensure examination fees shall not be returned due to the withdrawal of the applicant or failure to take the examination after the fee has been accepted by the Board. ~~The Board shall, however, apply a remitted and accepted fee to a future examination, upon receipt of an updated and fully executed examination application.~~ If, during its review of an application, the Board determines that information submitted is false, misleading or deceptive, the Board shall deny the application but retain any fees paid.

*Authority G.S. 90-245; 90-246.*

### **21 NCAC 40 .0303      LICENSURE EXAMINATION AND RE-EXAMINATION**

(a) A candidate who has met the qualifications as defined in G.S. 90-237, and either 90-240 or 90-241(b) shall be admitted to a Practical component of the licensure examination upon the Board's receipt of a fully executed application and the examination fee.

(b) The examination shall be administered at least twice yearly, at a time and location specified by the ~~Board~~. Board or any of its examination administration agents.

(c) Exam applications obtained by procedures outlined in Rule .0104 of this Chapter must be properly executed and received by the Board no later than 60 days prior to the ~~Board specified date of an examination.~~ opening of the exam registration period specified by the Board or any of its examination administration agents.

(d) If, during its review of an application, the Board determines that a candidate has participated in a Practical exam without first having their qualifications examined by the Board, the Board shall deny any passing score obtained by the candidate and require subsequent re-examination in the Practical.

~~(d)(e)~~ The licensure exam shall consist of written and practical components. An optician's license shall not be issued until a passing score has been achieved on all components within three years from the date one component is successfully completed.

~~(e)(f)~~ A participant who is unsuccessful in passing an exam component may retake the failed components upon timely ~~receipt of an updated and properly executed exam retake application~~ registration and remittance of the examination fee. fee to the administration agent.

~~(f) A participant who is unsuccessful in passing an exam component may see the failed portion of his or her examination by registering for a Board proctored exam review.~~

*Authority G.S. 90-240; 90-249; 93B-8.*

### **21 NCAC 40 .0314      APPRENTICESHIP AND INTERNSHIP REQUIREMENTS: REGISTRATION**

(a) Each apprentice or intern entering the apprenticeship or internship shall register with the Board and be issued a certificate of registration. Registration of the apprenticeship automatically

expires on the first day of July of each year, and, in order for the apprenticeship to continue, registration must be renewed each succeeding July 1 until the apprenticeship is completed. If the apprenticeship or internship is to be supervised by an ophthalmologist or optometrist, the supervisor shall provide a statement in which he agrees to abide by the same requirements as would an optician providing the same training.

(b) Part-time work or work as an optical salesman or consultant shall not apply toward completion of apprenticeship or internship.

(c) The work as an apprentice or intern shall be full time, defined as a minimum of ~~35~~ 32 hours per week, under the supervision of a licensed optician, ophthalmologist, or optometrist.

(d) In addition to the work specified in Paragraph (c) of this Rule, the curriculum for the apprentice shall include one of the following, as chosen by the apprentice:

- (1) an optical curriculum certificate program presented by a school of opticianry approved pursuant to ~~21 NCAC 40 .0312~~, Rule .0312 of this Chapter; or
- (2) the National Academy of Opticianry's home study career progression ~~program~~, program; or
- (3) any apprenticeship program, approved by the Board, which is offered by an optical place of business registered with the Board pursuant to ~~21 NCAC 40 .0202~~, Rule .0202 of this Chapter. The Board shall approve such apprenticeship program if the program's curriculum summary contains subject matter similar to the curriculum summary of the National Academy of Opticianry's home study career progression program.

The classroom and laboratory time spent in the optical curriculum certificate program shall be credited as part of the apprenticeship period and its minimum of ~~35~~ 32 hours per week. Certification that the apprentice has completed and passed one of the programs shall be required. Apprentices registered with the Board on or before March 1, 1996, shall not be subject to the provisions of this Paragraph and may satisfy the apprenticeship requirement by completing the training program in which they are then registered.

(e) No more than two persons, whether apprentices or interns or a combination, may be trained by an optician, ophthalmologist, or optometrist at the same time.

(f) An apprentice or intern shall be credited with training time only from the date of registration with the Board as an apprentice or intern. The apprenticeship or internship may not be interrupted for more than 12 months at the time.

(g) When registering to serve a six month internship, the applicant must have completed the ~~three~~ two and one-half years of apprenticeship as required by G.S. 90-240(a)(2) and (3) or have completed the course of training required by G.S. 90-240(a)(1).

*Authority G.S. 90-239; 90-240; 90-243; 90-249.*

#### **21 NCAC 40 .0319 APPLICANTS FROM OTHER STATES**

(a) An applicant seeking licensure in North Carolina under G.S. 90-241(a) shall tender an application to the Board accompanied by affidavits from two persons with whom the applicant worked as an optician for the previous four years. In addition, the

applicant shall furnish affidavits from two licensed refractionists, either ophthalmologists or optometrists, that the applicant has practiced the profession of opticianry for four years in another state immediately prior to the application. An application under G.S. 90-241(a) must be filed with the Board not more than 90 days following the termination of the applicant's out-of-state opticianry work for which the applicant claims credit.

(b) An applicant seeking admission to an examination under G.S. 90-241(b) shall tender an application to the Board accompanied by affidavits from two persons under whom or with whom the applicant lawfully worked in the practice of opticianry in the other state, either in one or multiple places of business. The application and the affidavits shall describe the tasks performed by the applicant in the other state and the dates the tasks were performed.

~~(e) An application under G.S. 90-241(a) must be filed with the Board not more than 90 days following the termination of the applicant's out-of-state opticianry work for which the applicant claims credit.~~

(c) An applicant seeking licensure in North Carolina under G.S. 90-241 must register with the Board to serve a 6 month internship pursuant to Rule .0314 of this Chapter not more than 12 months following the date of notification from the Board concerning the applicant's licensure eligibility. The applicant shall reapply for licensure with the Board if the fully executed internship registration is not received in the Board office within the required timeframe.

*Authority G.S. 90-237; 90-239; 90-241; 90-249(12).*

#### **21 NCAC 40 .0320 LICENSE RENEWAL INFORMATION**

(a) Each registrant is sent an application to renew licensure yearly. The ~~application~~ application, required education documentation, and specified fee must be ~~returned~~ received in the Board office prior to renewal.

(b) A registrant may apply to the Board for change of status to inactive status. Application for any status change shall be made on the form provided by the Board.

(c) A registrant with an approval for inactive practice status shall not practice as a licensed optician. A registrant in inactive practice status may not remain in inactive status if found in practice. Registrants in inactive status shall pay the yearly renewal fee and complete a renewal form for inactive practice status but are not required to obtain annual continuing education hours during such periods of inactivity.

(d) A registrant in inactive status may apply to the Board to change to active status by:

- (1) completing the form provided by the Board;
- (2) attending the required continuing education hours for the current year as set forth in Rule .0206 of this Chapter; and
- (3) paying the license restoration fee as set forth in G.S. 90-246.

(e) The Board will notify registrants of receipt of yearly licensure renewal and of approval of status changes.

*Authority G.S. 90-244(b).*

**21 NCAC 40 .0321      TRAINING ESTABLISHMENT REQUIREMENTS**

Any North Carolina licensed optician, ophthalmologist, or optometrist as provided in G.S. 90-237 (4) and G.S. 90-240(a)(2) and (3) who proposes to train an apprentice or intern to become an optician shall fill out and sign ~~under oath~~ an application to do so. In addition, the training establishment must meet the requirements of the Board to train an apprentice or intern in opticianry. These requirements are:

- (1) providing the list of minimum equipment specified by the Board;
- (2) submitting a schedule of work processes and indicating the number of hours to be devoted to each work process for the apprentice and/or intern as outlined in the curriculum approved by the Board;
- (3) administering and returning any test required by the Board for trainees and submitting requested periodic statements regarding compliance; and
- (4) allowing on-site inspection of the training establishment by the Board.

*Authority G.S. 90-237(4); 90-240(3); 90-243; 90-249.*

**21 NCAC 40 .0323      AFFIDAVIT OF APPLICANT**

- (a) Applicants for any Board process (training, examination, and licensure application) shall attest ~~under oath~~ to the completeness and accuracy of the information contained in applications.
- (b) The Board may decide to conduct a criminal background check as a part of its application review. Application fees are inclusive of costs involved for such investigations, and no additional charges shall be assessed against the applicant.
- (c) If an applicant submits incomplete, false, or misleading information, the Board shall bar any applicant from admission to examination, apprenticeship, internship, ~~business~~ business, or training establishment registrations or licensure.
- (d) If any optician, optometrist, or ophthalmologist submits incomplete, ~~false~~ false, or misleading information, then the Board shall bar them from training.

*Authority G.S. 90-243; 90-249.*

**21 NCAC 40 .0325      LICENSURE FOR MILITARY-TRAINED APPLICANT; LICENSURE FOR MILITARY SPOUSE**

(a) Licensure for a military-trained applicant. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military-trained applicant, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete Application for License to Practice Ophthalmic Dispensing, pursuant to G.S. 93B-15.1, Military Training/Experience or Spouse of Military Personnel;
- (2) submission of a license fee as set forth in G.S. 90-246;
- (3) providing documentation to satisfy conditions set out in G.S. 93B-15.1(a)(1) and (2); and
- (4) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed.

(b) Licensure for a military spouse. Upon receipt of a request for licensure pursuant to G.S. 93B-15.1 from a military spouse, the Board shall issue a license to the applicant who satisfies the following conditions:

- (1) submission of a complete Application for License to Practice Ophthalmic Dispensing, pursuant to G.S. 93B-15.1, Military Training/Experience or Spouse of Military Personnel;
- (2) submission of a license fee as set forth in G.S. 90-246;
- (3) submission of written documentation demonstrating that the applicant is married to an active member of the U.S. military;
- (4) providing documentation to satisfy conditions set out in G.S. 93B-15.1(b)(1) and (2);
- (5) providing documentation that the applicant has not committed any act in any jurisdiction that would constitute grounds for refusal, suspension, or revocation of a license in North Carolina at the time the act was committed; and
- (6) is in good standing and has not been disciplined by the agency that had jurisdiction to issue the license, certification, or permit.

*Authority G.S. 90-234; 90-239; 93B-15.1.*

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**APPROVED RULES**

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

Rules approved by the Rules Review Commission at its meeting on April 18, 2019 Meeting.

**REGISTER CITATION TO THE  
NOTICE OF TEXT****SOIL AND WATER CONSERVATION COMMISSION**

|   |                    |           |
|---|--------------------|-----------|
| <u>Purpose</u>  | 02 NCAC 59D .0101* | 32:09 NCR |
| <u>Definitions For Subchapter 59D</u>                               | 02 NCAC 59D .0102* | 32:09 NCR |
| <u>Agriculture Cost Share Program Financial Assistance Alloc...</u> | 02 NCAC 59D .0103* | 32:09 NCR |
| <u>Community Conservation Assistance Program Allocation Guid...</u> | 02 NCAC 59D .0104* | 32:09 NCR |
| <u>Agricultural Water Resources Assistance Program Financial...</u> | 02 NCAC 59D .0105* | 32:09 NCR |
| <u>Best Management Practices Eligible for Cost Share Payments</u>   | 02 NCAC 59D .0106* | 32:09 NCR |
| <u>Cost Share and Incentive Payments</u>                            | 02 NCAC 59D .0107* | 32:09 NCR |
| <u>Technical Assistance Funds</u>                                   | 02 NCAC 59D .0108* | 32:09 NCR |
| <u>Cost Share Agreement</u>   | 02 NCAC 59D .0109* | 32:09 NCR |
| <u>District Program Operation</u>                                   | 02 NCAC 59D .0110* | 32:09 NCR |

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

|  |                    |           |
|--|--------------------|-----------|
| <u>Radioactive Materials and Accelerator Fee Amounts</u> | 10A NCAC 15 .1106* | 33:10 NCR |
|--|--------------------|-----------|

**WILDLIFE RESOURCES COMMISSION**

|   |                     |           |
|---|---------------------|-----------|
| <u>Particular Offenses</u>                                    | 15A NCAC 10A .1001* | 33:11 NCR |
| <u>Summary Disposition</u>                                    | 15A NCAC 10A .1501  | 33:11 NCR |
| <u>Permitted Archery Equipment</u>                            | 15A NCAC 10B .0116  | 33:11 NCR |
| <u>Importation of Animal Parts</u>                            | 15A NCAC 10B .0124* | 33:11 NCR |
| <u>Bear</u>   | 15A NCAC 10B .0202  | 33:11 NCR |
| <u>Squirrels</u>  | 15A NCAC 10B .0206  | 33:11 NCR |
| <u>Rabbits</u>  | 15A NCAC 10B .0207  | 33:11 NCR |
| <u>Open Seasons</u>   | 15A NCAC 10B .0303* | 33:11 NCR |
| <u>Public Mountain Trout Waters</u>                           | 15A NCAC 10C .0205  | 33:11 NCR |
| <u>Possession of Certain Fishes</u>                           | 15A NCAC 10C .0211* | 33:11 NCR |
| <u>Black Bass</u>   | 15A NCAC 10C .0305  | 33:11 NCR |
| <u>Crappie</u>  | 15A NCAC 10C .0306* | 33:11 NCR |
| <u>Shad</u>   | 15A NCAC 10C .0313  | 33:11 NCR |
| <u>Striped Bass</u>   | 15A NCAC 10C .0314* | 33:11 NCR |
| <u>Trout</u>  | 15A NCAC 10C .0316  | 33:11 NCR |
| <u>Taking Nongame Fishes for Bait or Personal Consumption</u> | 15A NCAC 10C .0402  | 33:11 NCR |
| <u>Permitted Special Devices and Open Seasons</u>             | 15A NCAC 10C .0407  | 33:11 NCR |
| <u>Hunting on Game Lands</u>                                  | 15A NCAC 10D .0103  | 33:11 NCR |
| <u>Bear Sanctuaries</u>                                       | 15A NCAC 10D .0106  | 33:11 NCR |
| <u>Use of Areas Regulated</u>                                 | 15A NCAC 10E .0104* | 33:11 NCR |
| <u>Beaufort County</u>  | 15A NCAC 10F .0303  | 33:09 NCR |
| <u>Mecklenburg and Gaston Counties</u>                        | 15A NCAC 10F .0333* | 33:09 NCR |

**PHYSICAL THERAPY EXAMINERS, BOARD OF**

|                                      |                    |           |
|--------------------------------------|--------------------|-----------|
| <u>Fees</u>                          | 21 NCAC 48F .0102  | 33:08 NCR |
| <u>Investigations</u>                | 21 NCAC 48F .0103* | 33:08 NCR |
| <u>Complaints and Investigations</u> | 21 NCAC 48G .0504* | 33:08 NCR |

*The following rules are subject to Legislative Review.*

**HEALTH AND HUMAN SERVICES, DEPARTMENT OF**

|   |                     |           |
|---|---------------------|-----------|
| <u>Definitions</u>  | 10A NCAC 14J .0101* | 32:14 NCR |
| <u>Applicability - Operations and Enforcement and Incorporat...</u> | 10A NCAC 14J .0102* | 32:14 NCR |
| <u>Applicability - Construction</u>                                 | 10A NCAC 14J .0103* | 32:14 NCR |
| <u>Requirement for Operations Manual</u>                            | 10A NCAC 14J .0201  | 32:14 NCR |
| <u>Contents of Operations Manual</u>                                | 10A NCAC 14J .0203* | 32:14 NCR |
| <u>Review of Manual</u>   | 10A NCAC 14J .0204  | 32:14 NCR |
| <u>Classification System and Total Design Capacity</u>              | 10A NCAC 14J .0301* | 32:14 NCR |
| <u>Separation of Male and Female Inmates</u>                        | 10A NCAC 14J .0302  | 32:14 NCR |
| <u>Confinement of Inmates Under 18 Years of Age</u>                 | 10A NCAC 14J .0303  | 32:14 NCR |
| <u>Portable Fire Extinguishers</u>                                  | 10A NCAC 14J .0402  | 32:14 NCR |
| <u>Fire Plan, Fire Evacuation Training, and Disaster Plan</u>       | 10A NCAC 14J .0403* | 32:14 NCR |
| <u>Mattresses</u>   | 10A NCAC 14J .0404  | 32:14 NCR |
| <u>Keys</u>   | 10A NCAC 14J .0405  | 32:14 NCR |
| <u>General Security Requirements</u>                                | 10A NCAC 14J .0501  | 32:14 NCR |
| <u>Supervision</u>  | 10A NCAC 14J .0601* | 32:14 NCR |
| <u>Mattresses and Bedding</u>                                       | 10A NCAC 14J .0702  | 32:14 NCR |
| <u>Personal Hygiene Items</u>                                       | 10A NCAC 14J .0705  | 32:14 NCR |
| <u>Menus</u>  | 10A NCAC 14J .0904* | 32:14 NCR |
| <u>Medical Plan</u>   | 10A NCAC 14J .1001* | 32:14 NCR |
| <u>Screening of Inmates</u>   | 10A NCAC 14J .1002* | 32:14 NCR |
| <u>Applicability - Construction</u>                                 | 10A NCAC 14J .1201  | 32:14 NCR |
| <u>Consultation and Technical Assistance</u>                        | 10A NCAC 14J .1202  | 32:14 NCR |
| <u>Compliance Review and Approval</u>                               | 10A NCAC 14J .1203* | 32:14 NCR |
| <u>Inmate Processing Area and Padded Cell</u>                       | 10A NCAC 14J .1207* | 32:14 NCR |
| <u>Other Areas</u>  | 10A NCAC 14J .1210* | 32:14 NCR |
| <u>Floors, Ceilings, and Walls</u>                                  | 10A NCAC 14J .1212  | 32:14 NCR |
| <u>Showers and Plumbing Fixtures</u>                                | 10A NCAC 14J .1213  | 32:14 NCR |
| <u>Windows and Glazing</u>  | 10A NCAC 14J .1214* | 32:14 NCR |
| <u>Doors, Bunks, Locks, and Fasteners</u>                           | 10A NCAC 14J .1215* | 32:14 NCR |
| <u>Plumbing Systems</u>   | 10A NCAC 14J .1218  | 32:14 NCR |
| <u>Electrical Systems</u>   | 10A NCAC 14J .1219* | 32:14 NCR |
| <u>Standards for Dayrooms</u>                                       | 10A NCAC 14J .1225* | 32:14 NCR |
| <u>Standards for Dormitories</u>                                    | 10A NCAC 14J .1226  | 32:14 NCR |

**TITLE 02 - DEPARTMENT OF AGRICULTURE AND  
CONSUMER SERVICES**

**02 NCAC 59D .0101 PURPOSE**

This Subchapter describes the operating procedures for the Division under the guidance of the Commission implementing the Agriculture Cost Share Program for Nonpoint Source Pollution Control, the Community Conservation Assistance Program for

Nonpoint Source Pollution Control, and the Agricultural Water Resources Assistance Program.

*History Note: Authority G.S. 106-840; 106-850; 106-860; 139-4; 139-60; Eff. May 1, 1987; Recodified from 15A NCAC 6E .0001 Eff. December 20, 1996; Transferred from 15A NCAC 06E .0101 Eff. May 1, 2012; Readopted Eff. January 1, 2020.*

**02 NCAC 59D .0102 DEFINITIONS**

In addition to the definitions found in G.S. 106-850 and 139-3, the following terms used in this Subchapter have the following meanings:

- (1) "Agricultural Nonpoint Source (NPS) Pollution" means pollution originating from a diffuse source as a result of agricultural activities related to crop production, production and management of poultry, livestock and aquaculture, land application of waste materials, and management of forestland incidental to agricultural production.
- (2) "Agricultural purposes" means agricultural activities related to crop production, production and management of poultry and livestock, land application of waste materials, and management of forestland incidental to agricultural production.
- (3) "Allocation" means the annual share of the State's appropriation for each program to participating districts.
- (4) "Applicant" means a person(s) who applies for best management practice cost sharing monies from the district. An applicant may also be referred to as a "cooperator." All entities with which the applicant is associated, including those in other counties, shall be considered the same applicant.
- (5) "Average Costs" means the calculated cost, determined by averaging actual costs and current cost estimates for best management practice implementation. Actual costs include labor, supplies, and other costs required for physical installation of a practice.
- (6) "Best Management Practice (BMP)" means a structural or nonstructural management based practice used singularly or in combination to address natural resource needs.
  - (a) For the Agriculture Cost Share Program and the Community Conservation Assistance Program, BMPs shall reduce nonpoint source inputs to receiving waters.
  - (b) For the Agricultural Water Resources Assistance Program, BMPs shall increase the storage, availability, and use efficiency of water for agricultural purposes.

- (7) "Commission" means the Soil and Water Conservation Commission.
- (8) "Conservation Plan" means a written plan documenting the applicant's decisions concerning land use, and both cost shared and non-cost shared BMPs to be installed and maintained on the management unit.
- (9) "Cost Share Agreement" means an agreement between the applicant and the district that defines the BMPs to be cost shared, rate and amount of payment, minimum practice life, and date of BMP installation. The agreement shall state that the recipient shall maintain and repair the practice(s) for the specified minimum life of the practice. The Cost Share Agreement shall have a maximum contract life of three years for BMP installation. The district shall perform an annual status review during the installation period.
- (10) "Cost Share Incentive (CSI)" means a predetermined fixed payment paid to an applicant for implementing a BMP in lieu of cost share.
- (11) "Cost Share Rate" means a cost share percentage paid to an applicant for implementing BMPs.
- (12) "Department" means the North Carolina Department of Agriculture and Consumer Services.
- (13) "Design practice" means an engineering practice as defined by the Natural Resources Conservation Service (NRCS) Technical Guide for North Carolina, which is incorporated by reference including all subsequent amendments and editions, and can be accessed for free at <http://efotg.sc.egov.usda.gov/#/>, or Soil and Water Conservation Commission list of BMPs that are acceptable for cost sharing. The list of BMPs shall be approved annually by the Commission and published in the Detailed Implementation Plan.
- (14) "Detailed Implementation Plan (DIP)" means the document published annually, including all Commission guidelines for each program for the current fiscal year including:
  - (a) annual program goals;
  - (b) district and Statewide allocations;
  - (c) BMPs that will be eligible for cost sharing; and
  - (d) the minimum life expectancy of those practices.
- (15) "District Allocation Pool" means the annual share of the State's appropriation for each program to be allocated to participating districts.
- (16) "District BMP" means a BMP requested by a district and approved by the Division for evaluation purposes.



- |   |   |
|---|---|
| <p>(17) "Division" means the Division of Soil and Water Conservation.</p> <p>(18) "Encumbered Funds" means monies from a district's allocation that have been obligated by the district to a cost share agreement.</p> <p>(19) "In-kind Contribution" means a contribution by the applicant towards the implementation of BMPs. In-kind contributions shall be approved by the district and can include labor, fuel, machinery use, and supplies and materials for implementing the approved BMPs.</p> <p>(20) "Fiscal Year" means the period from July 1 through June 30 for which funds are allocated to districts.</p> <p>(21) "Job Approval Authority" means the authority granted to individuals who are qualified to plan, design, and verify installation or implementation of specific practices per practice standards approved by the Natural Resources Conservation Service or the Commission. This authority is granted by the Natural Resources Conservation Service or the Commission.</p> <p>(22) "Landowner" means any natural person or other legal entity, including a governmental agency, who holds either an estate of freehold (such as a fee simple absolute or a life estate) or an estate for years or from year to year in land, but shall not include an estate at will or by sufferance in land. A governmental or quasi-governmental agency such as a drainage district or a soil and water conservation district, or any such agency, exercising similar powers for similar purposes, can be a landowner for the purposes of the rules of this Subchapter if the governmental agency holds an easement in land.</p> <p>(23) "Nonpoint Source (NPS) Pollution" means pollution originating from a diffuse source.</p> <p>(24) "Proper Maintenance" means that a practice(s) is being maintained such that the practice(s) is</p> | <p>performing the function for which it was originally implemented, as determined by the technical representative of the district or Division based upon the best management practice design and standard.</p> <p>(25) "Regional Allocation Pool" means the annual share of the State's appropriation for each program allocated for applications ranked in the Division's three regions as specified in the annual Detailed Implementation Plan.</p> <p>(26) "Statewide Allocation Pool" means the annual share of the State's appropriation for applications ranked at the State level as specified in the annual Detailed Implementation Plan.</p> <p>(27) "Strategic Plan" means the annual plan for the N.C. Soil and Water Conservation Commission Cost Share Programs to be developed by each district. The plan identifies natural resource needs and the level of cost sharing and technical assistance monies required to address those annual needs in the respective district.</p> <p>(28) "Technical representative of the district" means a person designated by the district to act on their behalf who participates in the planning, design, implementation and inspection of BMPs.</p> <p>(29) "Unencumbered Funds" means the portion of the allocation to each district that has not been committed for cost sharing.</p> |
|---|---|
- History Note: Authority G.S. 106-840; 106-850; 106-860; 139-3; 139-4; 139-8; 139-60; Eff. May 1, 1987; Temporary Amendment Eff. September 23, 1996; Recodified from 15A NCAC 6E .0002 Eff. December 20, 1996; Amended Eff. April 1, 1997; Temporary Amendment Expired June 13, 1997; Amended Eff. March 1, 2008; July 1, 2004; Transferred from 15A NCAC 06E .0102 Eff. May 1, 2012; Readopted Eff. January 1, 2020.*

**02 NCAC 59D .0103 AGRICULTURE COST SHARE PROGRAM FINANCIAL ASSISTANCE ALLOCATION GUIDELINES AND PROCEDURES**

- (a) The Commission shall allocate cost share funds to districts for cost share payments and cost share incentive payments. In order to receive fund allocations, each district shall submit an annual strategic plan to the Commission by June 1 of each year.
- (b) Funds shall be allocated to the districts at the beginning of the fiscal year and whenever the Commission determines that sufficient funds are available to justify a reallocation. District allocations shall be based on the identified level of agricultural nonpoint source pollution problems, the respective district's BMP installation goals as demonstrated in the district's annual strategic plan, and the district's record of performance to affect BMP installation by participating farmers. The allocation method used for disbursement of funds shall be based on the relative position of each respective district for those parameters approved by the Commission pursuant to Paragraph (g) of this Rule. Each district shall be assigned points for each parameter, and the points shall be totaled and proportioned to the total dollars available under the current program year funding according to the following formula:

|     |                         |   |              |                   |
|-----|-------------------------|---|--------------|-------------------|
| (1) | Sum of Parameter Points | = | Total Points |                   |
| (2) | Percentage Total        |   | Total        | Dollars Available |
|     | Points Each             | x | Dollars      | =                 |
|     | District                |   | Available    | to                |
|     |                         |   |              | Each District     |

- (3) The minimum allocated to a district shall be twenty thousand dollars (\$20,000) per program year, unless the district requests less than twenty thousand dollars (\$20,000).
- (4) If a district requests less than the dollars available to that district in Subparagraph (b)(2) of this Rule, then the excess funds shall be allocated to the districts who did not receive their full requested allocation using the same methodology described in Subparagraph (b)(2) of this Rule.
- (c) In the initial allocation, 95 percent of the annual appropriation shall be allocated to district accounts administered by the Division. The Division shall retain five percent of the annual appropriation as a contingency to be used to respond to an emergency or natural disaster. If the contingency funds are not needed to respond to an emergency, then they shall be available for allocation after March 1.
- (d) The Commission may recall funds allocated to a district that have not been encumbered to an agreement at any time if it determines the recalled funds are needed to respond to an emergency or natural disaster.
- (e) At any time a district may submit a revised strategic plan to request additional funds from the Commission.
- (f) Agreements that encumber funds under the current fiscal year shall be submitted to the Division by 5:00 p.m. on June 30.
- (g) For the Agriculture Cost Share Program for Nonpoint Source Pollution Control, districts shall be allocated funds based on their respective data for each of the following parameters:
  - (1) Percentage of total acres of agricultural land in North Carolina that are in the respective district as reported in the most recent edition of the North Carolina Census of Agriculture. This report is incorporated by reference with all subsequent amendments and editions and may be accessed at no charge at [www.agcensus.usda.gov](http://www.agcensus.usda.gov). The actual percentage shall be normalized to a 1-100 scale. (20%)
  - (2) Percentage of total number of animal units in North Carolina that are in the respective district as reported in the most recent edition of the North Carolina Census of Agriculture and converted to animal units using the conversion factors approved by the USDA-Natural Resources Conservation Service. The actual percentage shall be normalized to a 1-100 scale. (20%)
  - (3) Relative rank of the percentage of the county outside of municipal boundaries as defined by North Carolina Department of Transportation at [https://gis11.services.ncdot.gov/arcgis/rest/services/NCDOT\\_CityBdy\\_Poly/MapServer/0](https://gis11.services.ncdot.gov/arcgis/rest/services/NCDOT_CityBdy_Poly/MapServer/0), draining to waters identified as impaired or impacted on the most recent Integrated Report a produced by the North Carolina Division Water Resources. This report is incorporated by reference with subsequent amendments and editions, and may be accessed at no charge at

- <https://deq.nc.gov/about/divisions/water-resources/planning/classification-standards/classifications>. (20%)
- (4) Relative rank of the percentage of the county draining to waters classified as Primary Nursery Areas, Outstanding Resource Waters, High Quality Waters, Trout Waters on the current schedule of Water Quality Standards and Classifications, Shellfish Harvesting Areas (open) as determined by the Division of Marine Fisheries, and North Carolina Drinking Water Assessment Areas as determined by the Division of Water Resources. All documents incorporated by reference may be accessed at no charge. The Classifications are incorporated by reference with subsequent amendments and editions, and may be accessed at <http://ncdenr.maps.arcgis.com/apps/webappviewer/index.html>. The Shellfish Harvesting Areas may be accessed at <http://portal.ncdenr.org/web/mf/shellfish-closure-maps>. The Drinking Water Assessment Areas may be accessed at <http://deq.nc.gov/about/divisions/water-resources/drinking-water/drinking-water-protection-program/mapping-applications>. (10%)
- (5) Percentage of program funds allocated to a district that are expended for installed BMPs in the highest three of the most recent seven-year period as reported in the NC Cost Share Contracting System. (20%)
- (6) Relative rank of the number of acres of highly erodible land in the county as reported by the United States Department of Agriculture Farm Service Agency, unless the State Conservationist of the Natural Resources Conservation Service specifies that another information source would be more current and accurate. (10%)

*History Note: Authority G.S. 106-840; 106-850; 106-860; 139-4; 139-8; 139-60;*  
*Eff. May 1, 1987;*  
*Recodified from 15A NCAC 06E .0003 Eff. December 20, 1996;*  
*Amended Eff. April 1, 1997;*  
*Temporary Amendment Eff. May 1, 2001;*  
*Amended Eff. September 1, 2005; August 1, 2002;*  
*Transferred from 15A NCAC 06E .0103 Eff. May 1, 2012;*  
*Readopted Eff. January 1, 2020.*

**02 NCAC 59D .0104 COMMUNITY CONSERVATION ASSISTANCE PROGRAM ALLOCATION GUIDELINES AND PROCEDURES**

(a) The Commission shall consider the total amount of funding available for allocation and relative needs for BMP implementation, local technical assistance, and education to determine the proportion of available funds to be allocated for each eligible purpose. This determination shall be done prior to

allocating funds to Statewide, regional, and district allocation pools and the Division. Funds may be allocated for any or all of the following purposes:

- (1) cost share and cost share incentive payments;
- (2) technical and administrative assistance; and
- (3) Statewide or local education and outreach activities.

The percentage of funding available for each purpose and each allocation pool shall be specified in the annual Detailed Implementation Plan based upon the recommendation of the Division and the needs expressed by the districts.

(b) Based on the availability of funds, the Commission shall allocate cost share funds from the district allocation pool to the districts. To receive fund allocations, each district shall request funds in their strategic plan.

(c) Funds for cost share and cost share incentive payments shall be allocated to the districts at the beginning of the fiscal year and whenever the Commission determines that funds are available in the district allocation pool to justify a reallocation. Districts shall be allocated monies based on the identified level of nonpoint source pollution problems and the respective district's BMP installation goals as demonstrated in the district's annual strategic plan. The allocation method used for disbursement of funds shall be based upon the score of each respective district for those parameters approved by the Commission pursuant to Subparagraph (7) of this Paragraph. The points each district scores on each parameter shall be totaled and proportioned to the total dollars available for district allocation under the current fiscal year funding according to the following formula:

- |  |   |
|--|---|
| <ol style="list-style-type: none"> <li>(1) Sum of Parameter Points</li> <li>(2) Percentage Total <span style="float: right;">x</span><br/>Points Each District</li> <li>(3) 95 percent of the program funding designated for district allocations shall be allocated to the district accounts in the initial allocation. The Division shall retain five percent of the total funding in a contingency fund to respond to an emergency or natural disaster.</li> <li>(4) The Commission may recall funds allocated to a district that have not been encumbered to an agreement at any time if it determines the recalled funds are needed to respond to an emergency or natural disaster.</li> <li>(5) At any time a district may submit a revised strategic plan to request additional funds from the Commission.</li> <li>(6) Agreements that encumber funds under the current fiscal year must be submitted to the Division by 5:00 p.m. on June 30.</li> <li>(7) Districts shall be allocated funds based on their respective data for each of the following parameters: <ol style="list-style-type: none"> <li>(A) Relative rank of the percentage of the county draining to waters identified as impaired or impacted on the most recent Integrated Report produced by the North Carolina Division of Water Resources. (20 percent).</li> <li>(B) Relative rank of the percentage of the county draining to waters classified as Outstanding Resource Waters, High Quality Waters and Trout Waters or on the current schedule of Water Quality Standards and Classifications, and Shellfish Harvesting Areas (open) as determined by the Division of Marine Fisheries. (20 percent)</li> <li>(C) The percentage of each county covered by National Pollutant Discharge Elimination System Phase I and Phase II requirements found at</li> </ol> </li> </ol> | $\frac{\text{Sum of Parameter Points}}{\text{Percentage Total Points Each District}} = \frac{\text{Total Points}}{\text{Dollars Available to Each District}}$ <p>(D) <a href="https://deq.nc.gov/about/divisions/water-resources/water-resources-permit-guidance/npdes-phase-i-phase-ii-stormwater-guidance">https://deq.nc.gov/about/divisions/water-resources/water-resources-permit-guidance/npdes-phase-i-phase-ii-stormwater-guidance</a>. (20 percent)</p> <p>(E) Relative rank of population density for the county. (20 percent)</p> <p>(F) Relative rank of the percentage of a county's land area that is located within drinking water assessment areas, as delineated by the Public Water Supply Section of the Division of Water Resources. (20 percent)</p> <p>The Commission may consider additional factors, such as data sources changes to the Subparagraphs in this Paragraph, as recommended by the Division when making its allocations.</p> <p>(d) Based on the availability of funds, the Commission shall allocate cost share funds from the Statewide and regional allocation pools. To receive fund allocations, each district designated eligible by the Commission shall submit applications to respective pools when solicited by the Division. The Division shall rank each application and recommend to the Commission for its approval an amount to allocate to each district corresponding to the highest-ranking applications.</p> <p><i>History Note: Authority G.S. 106-860; 139-8; 139-8; Eff. May 1, 1987; Recodified from 15A NCAC 6E .0004 Eff. December 20, 1996; Amended Eff. January 1, 1998; Transferred from 15A NCAC 06E .0104 Eff. May 1, 2012; Readopted Eff. January 1, 2020.</i></p> <p><b>02 NCAC 59D .0105 AGRICULTURAL WATER RESOURCES ASSISTANCE PROGRAM FINANCIAL ASSISTANCE ALLOCATION GUIDELINES AND PROCEDURES</b></p> <p>(a) The Commission shall consider the total amount of funding available for allocation and the relative needs for BMP</p> |
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implementation to determine the proportion of available funds to be allocated to statewide, regional, and district allocation pools and the Division. The percentage of funding available for each purpose and each allocation pool shall be specified in the annual Detailed Implementation Plan based upon the recommendation of the Division and the needs expressed by the districts.

(b) Based on funding availability, the Commission shall allocate cost share funds from the district allocation pool to the districts. To receive fund allocations, each district shall request an allocation in their strategic plan.

(c) Funds for cost share and cost share incentive payments shall be allocated to the districts at the beginning of the fiscal year and

whenever the Commission determines that funds are available in the district allocation pool to justify a reallocation. Districts shall be allocated monies based on the identified level of agricultural water use needs and the respective district's BMP installation goals as demonstrated in the district's annual strategic plan. The allocation method used for disbursement of funds shall be based on the relative position of each respective district for those parameters approved by the Commission pursuant to Paragraph (h) of this Rule. The points each district scores on each parameter shall be totaled and proportioned to the total dollars available for district allocation under the current fiscal year funding according to the following formula:

|     |                         |   |              |                   |
|-----|-------------------------|---|--------------|-------------------|
| (1) | Sum of Parameter Points | = | Total Points |                   |
| (2) | Percentage Total        |   | Total        | Dollars Available |
|     | Points Each             | x | Dollars      | = to              |
|     | District                |   | Available    | Each District     |

(3) The minimum district allocation shall be specified in the Detailed Implementation Plan.

(4) If a district requests less than the dollars available to that district in Subparagraph (b)(2) of this Rule, then the excess funds shall be allocated to the districts who did not receive their full requested allocation using the same methodology described in Subparagraph (b)(2) of this Rule.

(d) In the initial allocation, 95 percent of the annual appropriation shall be allocated to district accounts administered by the Division. The Division shall retain five percent of the annual appropriation as a contingency to be used to respond to an emergency or natural disaster. If the contingency funds are not needed to respond to an emergency, then they shall be available for allocation after March 1.

(e) The Commission may recall funds allocated to a district that have not been encumbered to an agreement at any time if it determines the recalled funds are needed to respond to an emergency or natural disaster.

(f) At any time a district may submit a revised strategic plan to request additional funds from the Commission.

(g) Agreements that encumber funds under the current fiscal year must be submitted to the Division by 5:00 p.m. on June 30.

(h) For the Agricultural Water Resources Assistance Program, districts shall be allocated funds based on their respective data for each of the following parameters:

- (1) Relative rank of the number of farms (total operations) that are in the respective district as reported in the Census of Agriculture. (20%)
- (2) Relative rank of the total acres of land in farms that are in the respective district as reported in the Census of Agriculture. (20%)
- (3) Relative rank of the Market Value of Sales that are in the respective district as reported in the Census of Agriculture. (15%)
- (4) Relative rank of the amount of agricultural water use in the respective district as reported in the North Carolina Agricultural Water Use Survey (25%). Data from the most recent three

surveys will be averaged to determine each district's rank.

(5) Relative rank of population density as reported by the state demographer. (20%)

(6) The Commission may consider additional factors, such as data sources changes to the Subparagraphs in this Paragraph, as recommended by the Division when making its allocations.

(i) Based upon funding availability, the Commission shall allocate cost share funds from the Statewide and regional allocation pools. To receive fund allocations, each district designated eligible by the Commission shall submit applications to respective pools when solicited by the Division. The Division shall rank each application and recommend to the Commission for its approval an amount to allocate to each district corresponding to the highest-ranking applications.

*History Note: Authority G.S. 106-840; 106-850; 106-860; 139-4; 139-8; 139-60;*

*Eff. May 1, 1987;*

*Temporary Amendment Eff. September 23, 1996;*

*Recodified form 15A NCAC 06E .0005 Eff. December 20, 1996;*

*Temporary Amendment Expired June 13, 1997;*

*Amended Eff. March 1, 2008; July 1, 2004; April 1, 1999; January 1, 1998;*

*Transferred from 15A NCAC 06E .0105 Eff. May 1, 2012;*

*Readopted Eff. January 1, 2020.*

## **02 NCAC 59D .0106 BEST MANAGEMENT PRACTICES ELIGIBLE FOR COST SHARE PAYMENTS**

(a) The Commission shall approve a list of BMPs that are acceptable for cost-sharing. The list of BMPs shall be approved annually and published in the DIP. The Commission may consider requests for additional BMPs at any time. The Commission shall consider the following criteria in approving BMPs:

- (1) all eligible BMPs shall be designed to meet the purpose of the program or shall be authorized by statute;
- (2) information establishing the average cost of the specified BMP shall be used, if available.

District BMPs may use actual costs as indicated by receipts, if average costs are not available; and

- (3) eligible BMPs shall follow technical specifications as set forth in Paragraph (b) of this Rule.

(b) BMP definitions and specifications shall be determined by the Commission or by the Division for District BMPs. For a contract to be eligible for payment, all cost-shared BMPs shall meet or exceed the specifications in effect at the time the contract was approved. Provisions for exceeding BMP design specifications by an applicant may be considered at the time of application with the district. The applicant shall assume responsibility for all costs associated with exceeding BMP design specifications.

(c) The Division has authority to approve District BMPs for evaluation purposes. The BMP shall be requested by a district and meet the program purpose. The Division shall determine it to be technically adequate prior to approving the agreement for funding.

(d) The minimum required maintenance of the BMPs shall be listed in the Detailed Implementation Plan or be established by the Division for District BMPs.

*History Note: Authority G.S. 106-840; 106-850; 106-860; 139-4; 139-8; 139-60; Eff. May 1, 1987; Amended Eff. July 1, 1992; Recodified from 15A NCAC 6E .0006 Eff. December 20, 1996; Amended Eff. August 1, 2005; November 1, 1997; Transferred from 15A NCAC 06E .0106 Eff. May 1, 2012; Readopted Eff. January 1, 2020.*

## **02 NCAC 59D .0107 COST SHARE AND INCENTIVE PAYMENTS**

(a) Cost share incentive (CSI) payments may be made through Cost Share Agreements between the district, Division, and the applicant.

(b) For all practices except those eligible for Cost Share Incentives (CSI), the State shall fund a percentage of the average cost for BMP installation not to exceed the maximum cost share percentages shown in G.S. 106-850(b)(6), (8), and (9), and the applicant shall fund the remainder of the cost. In-kind contributions by the applicant shall be included in the applicants' cost share contribution. In-kind contributions shall be approved by the district and Division.

(c) CSI payments shall be limited to a maximum of three years per entity.

(d) Average installation costs for each comparative area or region of the State and the amount of cost share incentive payments shall be updated and revised triennially by the Division for approval by the Commission.

(e) The total annual cost share payments to an applicant shall not exceed the maximum funding authorized in G.S. 106-850(b)(6) and (9).

(f) Use of cost share payments shall be restricted to land located within the county approved for funding by the Commission. However, in the situation where an applicant's farm is not located solely within a county, the entire farm, if contiguous, shall be eligible for cost share payments.

(g) Agriculture Cost Share Program and Agricultural Water Resources Assistance Program Cost Share Agreements used on or for local, State, or federal government land shall be approved by the Commission to avoid potential conflicts of interest and to ensure that such contracts are consistent with the purposes of these programs.

(h) The district Board of Supervisors may approve Cost Share Agreements with cost share percentages or amounts less than the maximum allowable in G.S. 106-850(b)(6), (8), and (9) if:

- (1) the Commission allocates insufficient cost share BMP funding to the district to enable it to award funding to all applicants; or
- (2) the district establishes other criteria in its annual strategic plan for cost sharing percentages or amounts less than those allowable in G.S. 106-850(b)(6), (8) and (9).

(i) For purposes of determining eligible payments under practice-specific caps described in the Detailed Implementation Plan, the district board shall consider all entities with which the applicant is associated, including those in other counties, as the same applicant.

*History Note: Authority G.S. 106-850; 106-860; 139-4; 139-8; 139-60; Eff. May 1, 1987; Amended Eff. July 1, 1992; Recodified from 15A NCAC 6E .0007 Eff. December 20, 1996; Amended Eff. June 1, 2008; April 1, 1999; November 1, 1997; Transferred from 15A NCAC 06E .0107 Eff. May 1, 2012; Readopted Eff. January 1, 2020.*

## **02 NCAC 59D .0108 TECHNICAL ASSISTANCE FUNDS**

(a) The funds available for technical assistance shall be allocated by the Commission based on the recommendation of the Division, the needs as expressed by the district, and the needs to accelerate the installation of BMPs in the respective district. The district shall provide at least 50 percent of the total matching funds for technical assistance.

(b) The Commission shall allocate technical assistance funds as described in its DIP. This allocation shall be made based on the implementation of conservation practices for which district employees provided technical assistance incorporating the following:

- (1) Commission Cost Share Programs funded practices will be weighted at 100 percent;
- (2) other local, State, federal, and grant funded practices that meet the purpose requirements as set forth in Rule .0101 of this Section will be weighted at a minimum of 25 percent as specified in the DIP;
- (3) districts shall submit information on funded practices as specified in Subparagraph (2) of this Paragraph through their annual strategic plan;
- (4) this allocation will be calculated using the highest three of the most recent seven years; and

- (5) this allocation will be calculated once every three years, unless there is a change in technical assistance State appropriations.

(c) Technical assistance funds may be used for salary, benefits, social security, field equipment and supplies, office rent, office equipment and supplies, postage, telephone service, travel, mileage, and any other expense of the district in implementing Soil and Water Conservation Commission Cost Share Programs.

(d) Each district requesting technical assistance funding with the required 50 percent local match shall receive a minimum allocation of \$20,000 each year.

(e) If a district is not spending more financial assistance funds on Commission Cost Share Programs than they receive for technical assistance, the district shall appeal to the Commission to receive technical assistance funding.

(f) All technical district employees shall obtain Job Approval Authority for two best management practices from the Commission or the United States Department of Agriculture Natural Resources Conservation Service within three years of being hired or three years of the effective date of this Rule, whichever is later.

- (1) One of the best management practices for which the employee has obtained Job Approval Authority shall be a design practice. "Design practice" means an engineering practice as defined by the Natural Resources Conservation Service of Soil and Water Conservation Commission in their Program Detailed Implementation Plan(s).
- (2) The District Board of Supervisors may request a one-year extension for their employees in meeting the Job Approval Authority requirement for extenuating circumstances outside of the employee's control.

*History Note:* Authority G.S. 106-840; 106-850; 139-4; 139-8;

*Eff. May 1, 1987;*

*Recodified from 15A NCAC 6E .0008 Eff. December 20, 1996;*

*Amended Eff. March 1, 2008; November 1, 1997;*

*Transferred from 15A NCAC 06E .0108 Eff. May 1, 2012;*

*Readopted Eff. January 1, 2020.*

## **02 NCAC 59D .0109 COST SHARE AGREEMENT**

(a) The landowner shall be required to sign the agreement for all practices that affect change to the property. The agreement shall include a requirement for the landowner to be responsible for BMP maintenance and continuation.

(b) The technical representative of the district shall determine if the practice(s) implemented have been installed according to practice standards as defined for the respective program year in the USDA- Natural Resources Conservation Service (NRCS) Technical Guide for North Carolina according to other specifications approved by the Commission, or according to standards approved by the Division for district BMPs based on the criteria established in 02 NCAC 59G .0103(c).

(c) The district shall be responsible for making an annual compliance visit of five percent of all the cost share agreements to ensure proper maintenance. The Commission may specify additional compliance visit requirements for specific BMPs in the Detailed Implementation Plan.

(d) If the technical representative of the district determines that a BMP for which program funds were received has been destroyed or has not been properly maintained, the applicant shall be notified that the BMP shall be repaired or re-implemented within 30 business days. For vegetative practices, applicants shall be given one calendar year to re-establish the vegetation. The Division shall grant a one calendar year extension period if it determines compliance cannot be met due to circumstances beyond the applicant's control, such as weather.

(e) If the practices are not repaired or reimplemented within the specified time, the applicant shall be required to repay to the Division a prorated refund for cost share BMPs as shown in Table 1 and 100 percent of the cost share incentive payments received.

Table 1  
PRORATED REFUND SCHEDULE FOR NONCOMPLIANCE  
OF COST SHARE PAYMENTS

| Percent Age of Practice Life | Percent Refund |
|------------------------------|----------------|
| 0                            | 100            |
| 10                           | 95             |
| 20                           | 89             |
| 30                           | 82             |
| 40                           | 74             |
| 50                           | 65             |
| 60                           | 55             |
| 70                           | 44             |
| 80                           | 31             |
| 90                           | 17             |
| 100                          | 0              |

(f) In the event that a Cost Share Agreement has been found to be noncompliant and the applicant does not agree to correct the non-compliance, the Division shall invoke procedures to achieve resolution to the noncompliance.

(g) When land under cost share agreement changes ownership the new landowner shall be encouraged by the district to accept the remaining maintenance obligation. If the new landowner does not accept the maintenance requirements in writing, then the original

applicant shall be required to refund 100 percent of all CSI payments and a prorated portion of cost share payments in accordance with Table 1 in Paragraph (e) of this Rule.

*History Note:* Authority G.S. 106-850; 139-4; 139-8;  
Eff. January 1, 2020.

**02 NCAC 59D .0110 DISTRICT PROGRAM OPERATION**

- (a) Each district shall prioritize resource concerns for each program in its annual strategic plan. The district shall target technical and financial assistance to facilitate BMP implementation.
- (b) The district shall give priority to implementing systems of BMPs that provide the most cost-effective conservation practice for addressing priority resource concerns.
- (c) All applicants shall apply to the district in order to receive cost share payments.
- (d) The district shall review each application and determine the feasibility of each application. The district shall review and approve the evaluation and assign priority for cost sharing. All applicants shall be informed of cost share application approval or denial.
- (e) Upon approval of the application by the district, the applicant, district, and the Division shall enter into a cost share agreement. The Cost Share Agreement shall list the practices to be cost shared with State funds. The agreement shall also include the average cost of the recommended practice(s), cost incentive payment of the practice(s), and the expected implementation date of the practice(s). The District shall develop a conservation plan that shall become a part of the Cost Share Agreement.
- (f) Upon completion of practice(s) implementation, the technical representative of the district shall notify the District Board of Supervisors of compliance with design specifications.
- (g) Upon notification by the technical representative, the district shall review the agreement and request for payment. Upon approval, the district shall certify the practices in the agreement and notify the Division to make payment to the applicant. The District Board of Supervisors shall certify that the individual signing the conservation plan and request for payment has Job Approval Authority for the respective practice(s) before signing requests for payment for completed BMPs.
- (h) The district shall be responsible for and approve all BMP inspections as set forth in Rule .0109(c) of this Section to ensure proper maintenance and continuation under the Cost Share Agreement.
- (i) The district shall keep records dealing with the program per its document retention schedule.

*History Note:* Authority G.S. 106-840; 106-850; 139-4; 139-8;  
Eff. January 1, 2020.

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

**10A NCAC 14J .0101 DEFINITIONS**

In addition to the definitions of G.S. 153A-217, the following definitions shall apply throughout Sections .0100 through .1300 of this Subchapter:

- (1) "Addition" means an extension or increase in floor area or height of a building or structure.
- (2) "Alteration" means any change or modification in construction or use.
- (3) "Booking area" means an area where a person is admitted to a jail and procedures such as searching, fingerprinting, photographing, health screening, and collecting personal history data occur.
- (4) "Cell" means any confinement unit, except a dormitory.
- (5) "Cellblock" means a separate and identifiable grouping of cells.
- (6) "Communicable disease or condition" means an illness or condition as defined in G.S. 130A-2.
- (7) "Control center" means a room where jail personnel control the safety and security functions of the jail through the monitoring and operation of equipment that includes the communication systems, security systems, electronic surveillance systems, fire alarm system, and electronic door locking systems.
- (8) "Confinement unit" means a single segregation cell, a single cell, a multiple occupancy cell, or a dormitory, but shall not include a padded cell.
- (9) "Construction Section" means the Construction Section of the Division of Health Service Regulation.
- (10) "Contraband" means any item that a person is not authorized to possess in the jail because it is a violation of G.S. 14-258.1 and G.S. 14-258.2 or it is not allowed by the sheriff or regional jail administrator.
- (11) "Dayroom" means an area accessible to a single cell or a multiple occupancy cell with access from the cell and space for activities such as dining, showers, physical exercise, and recreation.
- (12) "Department" means as defined in G.S. 153A-217.
- (13) "Direct two-way voice communication" means the monitoring of inmate activity by an officer who is located within a cellblock, dayroom, or dormitory and who has oral communications with inmates without the use of a remote two-way voice communication system.
- (14) "Direct visual observation" means the monitoring of inmate activity by an officer who has a direct visual view of the inmates without the use of video surveillance. A jail shall locate an officer either within the cellblock, dayroom, and dormitory or outside of the cellblock, dayroom, and dormitory separated by barriers with view panels. If the officer is separated by barriers from the cell block, dayroom, or

- dormitory, the view panels in the barriers shall be sized and located to provide the officer with a view into the interior of the cells. The front of these cells shall have bars or doors with view panels.
- (15) "Disaster plan" means an individual jail's plan with written policies and procedures that states what, how, and when actions shall be taken by a jail to maintain the security, welfare, and safety of inmates, staff, officers, and the public before and after the occurrence of an emergency event at the jail. This plan is created and written by the sheriff, regional jail administrator, or their designees.
- (16) "District confinement facility" means a building operated by two or more units of local government for the confinement of inmates as provided in G.S. 153A-219.
- (17) "Division" means the Division of Health Service Regulation of the North Carolina Department of Health and Human Services.
- (18) "Dormitory" means an area designed to house inmates that combines dayroom space with sleeping space.
- (19) "Emergency event" means an event caused by the occurrence of an emergency as defined by G.S. 166A-19.3(6) or the loss of a jail's utility service that includes electricity, water, gas, or communications.
- (20) "Emergency medical need" means a medical condition that requires medical treatment as soon as noticed and that may not be deferred until the next scheduled sick call or clinic.
- (21) "Fire evacuation training" means instructing officers and jail staff in procedures related to the evacuation or relocation of building occupants when there is a fire in the jail. The instruction shall simulate an actual fire and a rehearsal of actions needed by officers and jail staff for the evacuation or relocation of building occupants but may not require the actual relocation of inmates within the jail or to the outdoors. The local fire marshal and the sheriff or regional jail administrator shall determine whether the rehearsal shall include the actual relocation of inmates within the jail or to the outdoors.
- (22) "Footcandle" means the amount of light thrown on a surface one foot away from the light source. It is a unit for measuring the intensity of illumination.
- (23) "Flushing rim floor drain" means a plumbing fixture that uses water activated by a flushometer valve to flush sanitary waste from the fixture to a sanitary drainage system. It shall be mounted flush to the floor.
- (24) "Glazing" means any infill material in a window or view panel that includes transparent or translucent glass, polycarbonate, or a combination of glass and polycarbonate.
- (25) "Governing body" means as defined in G.S. 153A-217.
- (26) "Holding area" means a place where inmates are held while awaiting processing, booking, court appearance, discharge, or transfer to a confinement unit.
- (27) "Holdover facility" means a facility as defined in G.S. 7B-1501.
- (28) "Inmate" means any person, whether pretrial, unsentenced, or sentenced, who is confined in a jail, a district confinement facility, or a county satellite jail/work release unit.
- (29) "Inmate processing area" means a location in a jail where the booking area and release functions for persons committed to the jail are performed.
- (30) "Interlocking security feature" means an electronic locking interface between two or more doors in a security vestibule that unlocks and opens one door while at the same time locking the other doors.
- (31) "Jail" means a building or part of a building operated by a county or group of counties for the confinement of inmates that includes county jails and district confinement facilities. It shall not include a county satellite jail/work release unit governed by Part 3 of Article 10 of Chapter 153A of the General Statutes.
- (32) "Means of egress" means an unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to the outside of the building.
- (33) "Medical personnel" means persons who provide medical care to inmates. Medical personnel shall include a physician, Registered Nurse, and Licensed Practical Nurse.
- (34) "Medical record" means a record of medical problems, examinations, diagnoses, and treatments.
- (35) "Mental health personnel" means persons who provide mental health services to inmates. Mental health personnel shall include a psychiatrist, psychologist, Registered Nurse, and social worker.
- (36) "Multiple occupancy cell" means a cell designed to house more than one inmate.
- (37) "Officer" means a person, whether sworn or unsworn, who is involved in the supervision, control, or custody of inmates.
- (38) "Operations manual" means a set of written policies and procedures for the operation of a jail in compliance with the standards set forth in Sections .0100 through .1100 and Section .1300 of this Subchapter.
- (39) "Program area" means a common area or room of a jail used by inmates, officers, or visitors for



- religious, education, training, or recreation activities.
- (40) "Program services" means activities provided to inmates by the jail that includes jail orientation, academic and vocational training, problem solving and recreational skills, and life skills in parenting and maintaining employment after release from jail.
- (41) "Regional jail administrator" means a person who manages a local district confinement facility on behalf of two or more units of local government as provided in G.S. 153A-219.
- (42) "Remote two-way voice communication" means the monitoring of inmate activity with a two-way voice intercom system installed between a confinement unit and a 24-hour officer staffed location away from the confinement unit.
- (43) "Repair" means reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
- (44) "Routine care" means medical care that includes physical examinations, health screenings, diagnostic testing, and treatment for an illness, a medical condition, or a mental health condition that is not an emergency medical need.
- (45) "Sally port" means an enclosed entry and exit area used either for vehicular or pedestrian traffic with gates or doors at both ends, only one of which opens at a time.
- (46) "Satellite jail/work release unit" means a unit as defined in G.S. 153A-230.1.
- (47) "Screenings of inmates" means a procedure for each newly-admitted inmate that combines visual observation with an interview to obtain information about the inmate prior to the inmate's placement in the general population of the jail. The procedure is set forth in Rule .1002 of this Subchapter.
- (48) "Secretary" means as defined in G.S. 153A-217.
- (49) "Security perimeter" means the outer portion of a jail that provides for the confinement of inmates and that prevents the entry of persons not authorized by the sheriff or regional jail administrator.
- (50) "Security-type" means a designation by a manufacturer that indicates the product is designed to withstand damage and destruction by inmates.
- (51) "Security vestibule" means a space that provides security by using two or more doors, with each door able to operate independently, and that permits an officer to observe those who pass through the space.
- (52) "Single cell" means a cell designed to house one inmate.
- (53) "Single segregation cell" means a cell designed to house one inmate who has been removed from the general inmate population for administrative segregation, disciplinary segregation, or protective custody.
- (54) "Special inmates" means an inmate that includes a geriatric inmate, an inmate with a mental health disorder, developmental disability, intellectual disability, or substance use disorder, and an inmate with a physical disability.
- (55) "Special watch rounds" means an in-person check of an inmate by an officer at time intervals set forth in Rule .0601(c) of this Subchapter.
- (56) "Supervision rounds" means an in-person check of inmates by an officer entering and walking through a cellblock, dayroom, or dormitory. For a cellblock or dayroom, the officer shall walk past and view into each cell and observe the inmate within the cell. If during the supervision rounds inmates are located in the dayroom and not in their cells, the officer shall observe each of the inmates located in the dayroom. For a dormitory, the officer shall walk through the dormitory and observe each inmate. An officer shall conduct the in-person check at time intervals specified in Rule .0601(a) of this Subchapter.
- (57) "Tamper-resistant" means a designation by a manufacturer that indicates the product is designed to withstand dismantling of the product, removal of the product, or interference with the operation of the product by inmates.
- (58) "Total design capacity" means the maximum number of inmates that can be housed in the confinement units of the jail based on the standards contained in Rule .0103 of this Section and Section .1200 of this Subchapter.
- (59) "Unit of local government" means as defined in G.S. 153A-217.
- (60) "Video surveillance" means the monitoring of inmate activity by a video camera installed in a cell block, dayroom, or dormitory with views of the confinement units. An officer in a location remote from the cell block, dayroom, or dormitory shall observe a live video image created by the video camera on a television monitor or computer monitor.
- (61) "View panel" means a transparent panel.
- (62) "Visitation area" means an area where inmates are permitted to receive visitors according to the jail's policies and procedures that govern visitation.
- (63) "Work release" means the release of a convicted inmate for employment in the community and the return to custody of the convicted inmate during nonworking hours.

*History Note:* Authority G.S. 153A-217; 153A-221;  
*Eff. June 1, 1990;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0102 APPLICABILITY –  
 OPERATIONS AND ENFORCEMENT AND  
 INCORPORATION BY REFERENCE**

(a) The standards established in Section .0100 through .1100 and Section .1300 of this Subchapter shall apply to all jails.

(b) For the purposes of the rules in this Subchapter, the following Codes, Rule, and standard are incorporated herein by reference including all subsequent amendments and editions. Copies of these Codes, Rule, and standard may be obtained or accessed from the online addresses listed:

- (1) All volumes of the North Carolina State Building Codes. Copies of all volumes of the North Carolina State Building Code may be purchased from the International Code Council online at [www.iccsafe.org](http://www.iccsafe.org) at a cost of six hundred seventeen dollars (\$617.00) or accessed electronically free of charge at [www.iccsafe.org](http://www.iccsafe.org);
- (2) 15A NCAC 18A .1517; and
- (3) the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72. Copies may be purchased from the National Fire Protection Association online at [http://catalog.nfpa.org/NFPA-72-National-Fire-Alarm-and-Signaling-Code-2016-Edition-P1198.aspx?order\\_src=C900&gclid=CJH4hoSFis8CFdQvgQod\\_y8Dig](http://catalog.nfpa.org/NFPA-72-National-Fire-Alarm-and-Signaling-Code-2016-Edition-P1198.aspx?order_src=C900&gclid=CJH4hoSFis8CFdQvgQod_y8Dig) for a cost of ninety-six dollars and fifty cents (\$96.50) or accessed electronically free of charge at <http://www.nfpa.org/codes-and-standards/all-codes-and-standards/list-of-codes-and-standards?mode=code&code=72>.

*History Note:* Authority G.S. 153A-221;  
*Eff. June 1, 1990;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0103 APPLICABILITY –  
 CONSTRUCTION**

(a) A new jail or an addition or alteration to an existing jail I and II shall meet the requirements of the North Carolina State Building Codes.

(b) An existing jail I and II shall meet the requirements of the North Carolina State Building Codes in effect at the time of construction, addition, alteration, or repair.

(c) New jail construction or any additions or alterations to an existing jail I and II that have construction documents approved by the Construction Section on or after the readopted effective date of this Rule shall meet the requirements of this Rule and the rules of Section .1200 of this Subchapter.

(d) Existing jail I construction is a jail that has construction documents approved by the Construction Section prior to June 1, 1990 and shall meet the requirements of this Rule and the rules of Section .1500 of this Subchapter.

(e) Existing jail II construction is a jail that has construction documents approved by the Construction Section on or after June 1, 1990 and prior to the readopted effective date of this Rule and shall meet the requirements of:

- (1) this Rule; and
- (2) Rules .1202 through .1226 of this Subchapter that were in effect at the time the construction documents were approved by the Construction Section.

(f) Previous versions of the rules of Section .1200 of this Subchapter can be accessed online at <https://www2.ncdhhs.gov/dhsr/jail/index.html>.

(g) A jail that is closed and later reopened shall meet the requirements of Paragraph (c) of this Rule. A jail is not closed if within the same 12-month period of time the jail has either:

- (1) housed inmates; or
- (2) been inspected by the Construction Section as required by G.S. 153A-222.

(h) Any existing building converted from another use to a new jail shall meet the requirements of Paragraph (c) of this Rule.

(i) Prior to changing a jail's total design capacity by the addition or removal of bunks, the alteration of rooms, or a change in use of space, the governing body shall submit a written request of the change to the Construction Section and obtain a written approval of the change from the Construction Section. For a new jail or an existing jail I, changes to their total design capacity shall comply with the requirements for a new jail as set forth in Paragraph (c) of this Rule. For an existing jail II, changes to its total design capacity shall comply with the requirements of Paragraph (e) of this Rule.

(j) This Rule and the rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter are minimum requirements and are not intended to prohibit jail construction, systems, or operational conditions that exceed these minimum requirements.

(k) The Division may grant an equivalency to allow an alternate design or functional variation from the requirements of this Rule and the rules contained in Sections .1200, .1500, .1600, and .1700 of this Subchapter. The equivalency may be granted by the Division when a governing body submits a written equivalency request to the Division that states the following:

- (1) the rule citation and the rule requirement that will not be met;
- (2) the justification for the equivalency; and
- (3) how the proposed equivalency meets the intent of the corresponding rule requirement.

In determining whether to grant an equivalency request the Division shall consider whether the request will reduce the safety and operational effectiveness of the jail design and layout. The governing body shall maintain a copy of the approved equivalence issued by the Division.

(l) If the rules, codes, or standards contained in this Subchapter conflict, the most restrictive requirement shall apply.

*History Note:* Authority G.S. 153A-221;  
*Eff. June 1, 1990;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0201 REQUIREMENT FOR OPERATIONS MANUAL**

The sheriff or the regional jail administrator shall develop an operations manual that meets the requirements of this Section.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1991;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0203 CONTENTS OF OPERATIONS MANUAL**

(a) The operations manual shall include written policies and procedures that address the following areas:

- (1) administration and management of inmates;
- (2) admissions, transportation, and release;
- (3) classification for the placement and housing of inmates, as set forth in Rule .0301(a) of this Subchapter;
- (4) security and supervision;
- (5) inmate rules and discipline;
- (6) management of special inmates;
- (7) legal rights of inmates;
- (8) health, mental health, developmental disability, intellectual disability, and substance use disorder services;
- (9) food services;
- (10) program services;
- (11) work release;
- (12) opportunities for exercise;
- (13) access to legal assistance or legal materials;
- (14) grievance procedures;
- (15) visitation and mail policies;
- (16) religious activities;
- (17) sanitation procedures that comply with Rule .0701 of this Subchapter;
- (18) emergency plans for a fire or an emergency situation that includes rioting, bomb threats, escapes, and the taking of hostages;
- (19) a disaster plan as required by Rule .0403(d) of this Subchapter;
- (20) a suicide prevention program that includes identifying suicidal inmates, supervising suicidal inmates, and reviewing procedures and debriefing officers after an inmate suicide;
- (21) waiving any medical fees for indigent inmates, as required by G.S. 153A-225;
- (22) use of force; and
- (23) use of restraints.

(b) In compliance with G.S. 153A-220(1), the Construction Section shall provide consultation and technical assistance to a jail upon request.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0204 REVIEW OF MANUAL**

The sheriff or regional jail administrator shall review and approve the operations manual in writing annually beginning on January 1. If the operations manual has changed, it shall be updated during the review. The date of the most recent review and approval shall be stated in the operations manual. The operations manual and the written approval shall be made available to the Construction Section during an inspection upon request.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0301 CLASSIFICATION SYSTEM AND TOTAL DESIGN CAPACITY**

(a) Each jail shall have a written classification procedure for the placement and housing of inmates. The procedure shall include the following criteria for inmate placement:

- (1) the medical care needed by the inmate as required by Rules .1001 and .1003 of this Subchapter;
- (2) the level of supervision needed by the inmate related to the inmate's assaultive or non-assaultive behavior toward officers and other inmates;
- (3) the level of security needed by the inmate to prevent the inmate's escape; and
- (4) other criteria as determined by the sheriff or regional jail administrator.

(b) When a jail exceeds its total design capacity, the sheriff, regional jail administrator, or their designees shall relocate inmates to another jail or prison to bring the number of inmates confined into compliance with the total design capacity.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0302 SEPARATION OF MALE AND FEMALE INMATES**

Pursuant to G.S. 153A-228, the jail shall not house female and male inmates in the same confinement unit, dayroom, dormitory, or program area. Inmates shall be housed in the jail where they cannot converse with, see, or be seen by inmates of the opposite sex.

*History Note: Authority G.S. 153A-221; 153A-228;  
Eff. June 1, 1990;  
Amended Eff. December 1, 1991;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0303 CONFINEMENT OF INMATES UNDER 18 YEARS OF AGE**

Inmates under 18 years of age shall be confined in separate cells from inmates who are 18 years of age and older during sleeping hours.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;*

*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0402 PORTABLE FIRE EXTINGUISHERS**

Each jail shall provide portable fire extinguishers that meet the requirements of the North Carolina State Fire Prevention Code.

*History Note: Authority G.S. 153A-221;*

*Eff. June 1, 1990;*

*Amended Eff. December 1, 1991;*

*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0403 FIRE PLAN, FIRE EVACUATION TRAINING, AND DISASTER PLAN**

(a) Each jail shall have a written plan for the evacuation and control of inmates in the event of a fire.

(b) Jail staff shall receive fire evacuation training as required by Section 405 of the North Carolina State Fire Prevention Code. The evacuation routes used in the fire evacuation training shall be posted in the jail for viewing by officers. The sheriff or regional jail administrator shall maintain written documentation of the fire evacuation training. The sheriff or regional jail administrator shall make this documentation available to the Construction Section during an inspection upon request.

(c) If the local fire department or fire marshal has not inspected the jail and approved the fire plan within 12 months of the date of their last inspection, the sheriff or regional jail administrator shall request in writing an inspection and approval of the plan from the local fire department or fire marshal. The sheriff or regional jail administrator shall maintain written documentation of either the inspection and the approved fire plan, or the written request for inspection and approval of the plan. The sheriff or regional jail administrator shall make this documentation available to the Construction Section during an inspection upon request.

(d) Each jail shall have a disaster plan that shall be documented as having been submitted to the local emergency management agency. The sheriff or regional jail administrator shall review the disaster plan in writing not less than once each year beginning on January 1. If the plan has changed, it will be updated during the review. The date of the most recent review shall be stated in the plan. The disaster plan shall be maintained at the jail and shall be made available to the Construction Section during an inspection upon request.

*History Note: Authority G.S. 153A-221;*

*Eff. June 1, 1990;*

*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0404 MATTRESSES**

Mattresses shall meet the requirements of the North Carolina State Fire Prevention Code.

*History Note: Authority G.S. 153A-221;*

*Eff. June 1, 1990;*

*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0405 KEYS**

(a) Each jail that is classified as an Institutional Group I-3 occupancy shall have a key control system. For the purposes of

this Rule, "Institutional Group I-3 occupancy" means an occupancy classification as defined in the North Carolina State Building Code.

(b) The key control system shall include the following elements:

- (1) a key control center that is inaccessible to unauthorized persons at all times;
- (2) a set of duplicate keys for emergency use stored outside the security perimeter of the jail in a location that is inaccessible to unauthorized persons at all times and accessible to emergency personnel at all times;
- (3) an accounting procedure for issuing and returning keys; and
- (4) a system of keys and matching locks that are color-coded and marked for identification by touch on both sides of doors installed in a means of egress.

*History Note: Authority G.S. 153A-221;*

*Eff. June 1, 1990;*

*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0501 GENERAL SECURITY REQUIREMENTS**

Each jail shall meet the following security requirements:

- (1) provide for the confinement of inmates from the time of their passage through the security perimeter until release;
- (2) provide for the locked storage of firearms before persons enter the security perimeter;
- (3) prevent the passage of contraband;
- (4) prevent contact between inmates and persons from outside the jail, unless authorized by the sheriff, regional jail administrator, or their designees;
- (5) provide a ground-level perimeter exterior that is lighted; and
- (6) provide a communications link with outside agencies for use in emergencies.

*History Note: Authority G.S. 153A-221;*

*Eff. June 1, 1990;*

*Amended Eff. December 1, 1991;*

*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0601 SUPERVISION**

(a) A jail shall have an officer make supervision rounds and observe each inmate at least two times within a 60 minute time period on an irregular basis with not more than 40 minutes between rounds. Supervision rounds shall be conducted 24 hours a day, 7 days per week. The supervision rounds shall be documented and maintained as written or electronic records. These records shall be made available to the Construction Section during an inspection upon request. The supplemental methods of supervision specified in Paragraph (b) of this Rule shall not substitute for supervision rounds.

(b) A jail shall utilize one or more supplemental methods of supervision 24 hours a day, 7 days a week. The supplemental methods of supervision are:

- (1) direct two-way voice communication;
- (2) remote two-way voice communication;
- (3) direct visual observation; and
- (4) video surveillance.

(c) While an inmate is on special watch, as specified by this Paragraph, the jail shall have an officer conduct special watch rounds and observe the inmate not less than four times within a 60 minute period on an irregular basis with not more than 20 minutes between rounds. Special watch shall be conducted 24 hours a day, 7 days a week. The special watch rounds shall be documented. The jail shall maintain written or electronic records of the special watch rounds and shall make these records available to the Construction Section during an inspection upon request. The supplemental methods of supervision specified in Paragraph (b) of this Rule shall not substitute for a special watch. Special watch shall be used for the following reasons:

- (1) an inmate with a medical record maintained and preserved by the jail as required by Rule .1001(b)(7) of this Subchapter that indicates the inmate has attempted suicide at a previous time, unless the inmate is seen by a physician who determines a special watch is not needed;
- (2) an inmate who reports a previous suicide attempt or threatens to commit suicide during their initial screening upon admission required by Rule .1001(b)(1) of this Subchapter, unless the inmate is seen by a physician who determines a special watch is not needed;
- (3) an inmate who has been assigned to special watch by medical or mental health personnel of the jail or an officer;
- (4) an inmate who displays any of the following behavior:
  - (A) physically hitting or trying to hit an officer;
  - (B) verbal abuse of other people;
  - (C) threatening other people, or threatening to or engaging in self-injury;
  - (D) screaming, crying, laughing uncontrollably, or refusing to talk; and
- (5) an inmate who is intoxicated by alcohol or drug use as determined at intake by one of the following:
  - (A) a blood alcohol content level of .15 or greater as measured;
  - (B) use of slurred speech; or
  - (C) the inability to control body movement.

(d) A jail shall make sure that officers remain awake at all times while on duty.

(e) An officer or officers assigned to supervise inmates as required by Paragraph (a) and (c) of this Rule may be assigned other tasks if those tasks do not interfere with the completion of supervision and special watch rounds or are not performed at the same time as supervision and special watch rounds. These other tasks may include:

- (1) delivering food to inmates;

- (2) preparing inmates for and transporting inmates to court;
- (3) escorting inmates to medical appointments;
- (4) performing inmate booking and release functions;
- (5) supervising inmates working in the jail; and
- (6) exchanging inmate's soiled clothing, bed sheets, and blankets with clean clothing, bed sheets, and blankets.

(f) A jail shall have female officers on duty when female inmates are confined.

(g) The sheriff or the regional jail administrator shall develop contingency personnel plans for the supervision and control of inmates during a fire, an emergency event, or an emergency situation that includes rioting, bomb threats, escapes, and the taking of hostages. The contingency personnel plans shall provide for the availability of extra personnel. A contingency personnel plan shall be included in the emergency plans required by Rule .0203(18) of this Subchapter and the disaster plan required by Rule .0403(d) of this Subchapter.

(h) A jail shall not allow an inmate to supervise or assume control over other inmates.

*History Note: Authority G.S. 153A-221; Eff. October 1, 1990; Amended Eff. June 1, 1992; Readopted Eff. Pending Legislative Review.*

#### **10A NCAC 14J .0702 MATTRESSES AND BEDDING**

(a) Mattresses, sheets, and blankets that are clean and are capable of being used for their intended purpose shall be supplied to inmates who are housed overnight. Clean sheets shall be issued at least once a week.

(b) Mattresses shall:

- (1) comply with G.S. 106.65.95 through 106.107 and the requirements of 15A NCAC 18A .1517;
- (2) not be less than four inches thick;
- (3) be the same length and width as the jail bunks;
- (4) not have any metal, plastic, or other rigid framing component; and
- (5) have ticking that is water repellent.

*History Note: Authority G.S. 153A-221; Eff. June 1, 1990; Readopted Eff. Pending Legislative Review.*

#### **10A NCAC 14J .0705 PERSONAL HYGIENE ITEMS**

(a) Every inmate detained over 24 hours shall be issued without charge the following items:

- (1) toothbrush;
- (2) toothpaste or tooth powder;
- (3) comb;
- (4) feminine hygiene products, if appropriate;
- (5) deodorant; and
- (6) shampoo.

(b) After an inmate has exhausted his or her initial supply of personal hygiene items listed in Paragraph (a) of this Rule, each jail shall make these items available either for inmate purchase or without charge, as determined by the jail.

*History Note:* Authority G.S. 153A-221;  
*Eff. June 1, 1990;*  
*Amended Eff. January 1, 1992;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .0904 MENUS**

- (a) A jail shall prepare menus in consultation with a dietitian or nutritionist.
- (b) Menus shall be written and portion sizes shall be specified within the menu.
- (c) Menus shall be dated and posted in the jail one week in advance of serving a meal.
- (d) Menus shall be served to inmates as written, unless a substitution of comparable nutritional value is served as determined by the dietitian or nutritionist. Substitutions to the menu shall be made in consultation with a dietitian or nutritionist.
- (e) The same menu shall not be served at lunch and dinner on the same day.
- (f) Dated menus and records of any substitutions shall be retained for three years by the jail or the jail's food vendor, either at the jail or at a remote location.
- (g) If requested during a Construction Section inspection, the jail shall make dated menus and records of substitutions available to the Construction Section within 30 days of the request.

*History Note:* Authority G.S. 153A-221;  
*Eff. June 1, 1990;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1001 MEDICAL PLAN**

- (a) A governing body shall develop and adopt a written medical plan in compliance with G.S. 153A-225. The medical plan shall be available for reference by jail personnel. The medical plan shall include a description of the health services available to inmates.
- (b) The written plan shall include policies and procedures that address the following areas:
  - (1) screening of inmates upon admission as set forth in Rule .1002(a) of this Section;
  - (2) handling routine medical care;
  - (3) handling routine care for an inmate's needs related to:
    - (A) mental health;
    - (B) a developmental or intellectual disability; and
    - (C) a substance use disorder;
  - (4) the handling of inmates with chronic illnesses or communicable diseases or conditions;
  - (5) administration, dispensing, and control of prescription and non-prescription medications;
  - (6) handling emergency medical needs, including dental care, substance use disorder, pregnancy, and mental health;
  - (7) maintenance, preservation, and confidentiality of medical records; and
  - (8) privacy during medical examinations and conferences with medical or mental health personnel.
- (c) Inmates shall be provided an opportunity each day to communicate their health complaints to medical personnel,

mental health personnel, or an officer. Medical personnel or mental health personnel shall be available to evaluate the needs of inmates related to medical care, mental health care, a substance use disorder, and a developmental or intellectual disability. A jail shall maintain a written record of an inmate's health complaints and the action taken by the jail. The jail shall make these records available to the Construction Section during an inspection upon request.

(d) Inmates shall not render medical care or routine care for mental health, substance use disorders, and developmental or intellectual disabilities to anyone in the jail.

(e) The local or district health director shall review the medical plan to determine if it needs to be updated not less than once each year beginning on January 1. If so, he or she shall update the medical plan in writing in accordance with G.S. 153A-225. The date of the most recent review shall be stated in the plan. The medical plan shall be maintained at the jail and shall be made available to the Construction Section during an inspection upon request.

*History Note:* Authority G.S. 153A-221; 153A-225;  
*Eff. June 1, 1990;*  
*Amended Eff. December 1, 1991;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1002 SCREENING OF INMATES**

(a) Medical personnel, mental health personnel, or an officer shall conduct and document screenings of each inmate upon admission for the following:

- (1) medical care needs;
- (2) mental health care needs;
- (3) developmental and intellectual disabilities;
- (4) substance use disorders; and
- (5) risk of suicide.

(b) Medical personnel or mental health personnel shall maintain a record of the screening in each inmate's medical record. In compliance with G.S. 153A-222, documentation of the screening shall be made available to the Construction Section during an inspection upon request.

(c) Officers may access or use information from the screening in accordance with the confidentiality policy and procedures for medical records that is required by Rule .1001(b)(7) of this Section.

*History Note:* Authority G.S. 153A-221;  
*Eff. June 1, 1990;*  
*Amended Eff. December 1, 1991;*  
*Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1201 APPLICABILITY – CONSTRUCTION**

*History Note:* Authority G.S. 153A-221;  
*Eff. June 1, 1990;*  
*Amended Eff. June 1, 1992;*  
*Repealed Eff. Pending Legislative Review.*

**10A NCAC 14J .1202 CONSULTATION AND TECHNICAL ASSISTANCE**

In compliance with G.S. 153A-220(1), the Construction Section shall provide consultation and technical assistance to a governing body in the planning and construction of a new jail or an addition, alteration, or repair of an existing jail I and II.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1203 COMPLIANCE REVIEW AND APPROVAL**

(a) Prior to the construction of a new jail or the construction of an addition or alteration to an existing jail I and II, the governing body shall submit the following to the Construction Section for review and approval:

- (1) two sets of schematic drawings and outline specifications;
- (2) two sets of preliminary working drawings or design development drawings and outline specifications; and
- (3) two sets of construction documents and specifications.

The Construction Section shall review one set of these drawings, documents, and specifications for compliance with the standards established in this Section and Rule .0103 of this Subchapter. The Construction Section shall have 45 days from receipt of these drawings, documents, and specifications to complete its review.

(b) Upon receipt of the drawings, documents, and specifications required by Paragraph (a) of this Rule, the Construction Section shall send one set to the North Carolina Department of Insurance for plan review to confirm compliance with the North Carolina State Building Codes. The Construction Section's approval shall be contingent upon the approval by the North Carolina Department of Insurance and the local building code official.

(c) During its review, the Construction Section shall determine the total design capacity of the confinement units in the jail. The Construction Section's approval letter required by Paragraph (g) of this Rule shall state the total design capacity of the jail with a breakdown of the total design capacity as follows:

- (1) total capacity of confinement units designed for male inmates who are 18 years of age or older;
- (2) total capacity of confinement units designed for male inmates who are under 18 years of age;
- (3) total capacity of confinement units designed for female inmates who are 18 years of age or older; and
- (4) total capacity of confinement units designed for female inmates who are under 18 years of age.

(d) In order to maintain compliance with the standards established in this Section and Rule .0103 of this Subchapter, the governing body shall obtain written approval from the Construction Section for any changes made during the construction of the jail in the same manner as set forth in Paragraph (a) of this Rule.

(e) Two weeks prior to the anticipated construction completion date, the governing body shall notify the Construction Section of the anticipated construction completion date in writing either by U.S. Mail at the Division of Health Service Regulation,

Construction Section, 2705 Mail Service Center, Raleigh, NC, 27699-2705 or by e-mail at DHSR.Construction.Admin@dhhs.nc.gov.

(f) Prior to inmate occupancy of the jail, the governing body shall obtain written approval of the completed construction from the Construction Section.

(g) When the Construction Section approves the construction documents and specifications, it shall provide the governing body with an approval letter. The Construction Section's approval of the construction documents and specifications shall expire 24 months after the issuance of the approval letter, unless the governing body has obtained a building permit for construction. If the Construction Section's approval has expired, the governing body may obtain a renewed approval of the construction documents and specifications from the Construction Section as follows:

- (1) If the standards established in this Section and Rule .0103 of this Subchapter have not changed, the governing body shall request a renewed approval of the construction documents and specifications from the Construction Section.
- (2) If the standards established in this Section and Rule .0103 of this Subchapter have changed, the governing body shall:
  - (A) submit revised construction documents and specifications meeting the current standards established in this Section and Rule .0103 of this Subchapter to the Construction Section; and
  - (B) receive written approval of the revised construction documents and specifications from the Construction Section.

The Construction Section shall have 45 days from receipt of a request for a renewed approval to complete its review of the request.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1992;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1207 INMATE PROCESSING AREA AND PADDED CELL**

(a) Each jail that performs a booking and release function shall have an inmate processing area that includes the following:

- (1) a separate inmate entrance;
- (2) a holding area with seating and access to a toilet, lavatory, drinking fountain, and a shower;
- (3) a booking area that includes space for photographing and fingerprinting inmates;
- (4) a telephone for making local and collect long-distance calls; and
- (5) a sobriety testing area.

(b) A holding area may have a cell but it shall not be used as a confinement unit.

(c) The inmate processing area may have a padded cell. The padded cell may be located in the medical area that is required by Rule .1209 of this Section. The padded cell shall:

- (1) be limited to one inmate;
- (2) contain a flushing rim floor drain that:
  - (A) is capable of accepting solid waste;
  - (B) has its flushing control located outside of the cell; and
  - (C) has a tamper-resistant cover as rated by the manufacturer;
- (3) be located to allow observation of the cell by an officer 24 hours a day 7 days per week;
- (4) have not less than 50 square feet of floor area with no one floor dimension being less than seven feet;
- (5) have not less than an eight feet clear ceiling height;
- (6) provide a food pass with a lockable shutter;
- (7) have a door with a view panel large enough to permit observation of the entire cell or meet the requirements of Paragraph (f) of this Rule;
- (8) be equipped with a fire sprinkler rated as tamper resistant by the manufacturer;
- (9) have remote two-way voice communication;
- (10) be padded with padding material that meets the requirements of Paragraph (d) of this Rule;
- (11) be separated from the remainder of the jail as required by Paragraph (e) of this Rule; and
- (12) have a water hose connection outside the cell that is not accessible to an inmate.

(d) Cell padding shall meet the requirements of the North Carolina State Fire Prevention Code. Cell padding shall be:

- (1) not less than ½ inch thick;
- (2) of a unitary or laminated construction designed to prevent destruction by teeth, hand tearing, or small metal objects;
- (3) bonded to surfaces to prevent tearing or ripping; and
- (4) without exposed seams that can be ripped open.

(e) A padded cell shall be separated from the remainder of the jail with a 1-hour fire-resistance-rated fire barrier and a fire door with a fire protection rating of not less than 45 minutes as required by the North Carolina State Building Code.

(f) If the padded cell has a video camera that monitors the inmate, the door's view panel may have a cover. The video camera shall be inaccessible to the inmate. An officer at the remote location from the padded cell shall observe a live video image created by the video camera on a television monitor or computer monitor. The television monitor or computer monitor shall have live video images from not more than six padded or holding cells.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1210 OTHER AREAS**

(a) Each jail that does not contract for meals shall have a kitchen. However, if a county or a region has more than one jail, it shall be

required to provide only one kitchen if that kitchen meets the needs of the inmates in all of the jails.

(b) Each jail that does not contract for laundry services shall have a laundry. However, if a county or a regional jail has more than one jail, it shall be required to provide only one laundry if that laundry meets the needs of the inmates in all of the jails.

(c) Each jail shall have indoor and outdoor physical exercise areas. The indoor and outdoor exercise areas shall meet the following requirements:

- (1) An outdoor exercise area or areas shall:
  - (A) be 15 square feet per inmate for the maximum number of inmates expected to use an exercise area at one time, as determined by the jail;
  - (B) be not less than 100 square feet for each individual exercise area serving one inmate;
  - (C) be not less than 300 square feet for each individual exercise area serving more than one inmate;
  - (D) have a hard surface for the floor;
  - (E) be enclosed by physical barriers that prevent inmate escape;
  - (F) be out of sight from the public; and
  - (G) if covered by a roof, be covered by noncombustible roof construction.
- (2) An indoor exercise area or areas shall:
  - (A) be located in the dayroom, cellblock, dormitory, or a separate room located near the dayroom, cellblock, or dormitory.
  - (B) be 15 square feet per inmate for the maximum number of inmates expected to use an exercise area at one time, as determined by the jail;
  - (C) be not less than 100 square feet for each individual exercise area serving one inmate;
  - (D) be not less than 300 square feet for each individual exercise area serving more than one inmate; and
  - (E) if the exercise area is located in a dayroom or dormitory, be in addition to the floor area required by Rules .1225 and .1226 of this Section.

(d) Each jail shall provide areas with shelves that meet its storage needs.

(e) Each jail shall have a cleaning area that is equipped with a sink and that provides for the storage of cleaning supplies and equipment in a locked area.

(f) Each jail shall provide a separate locked storage area or areas for the storage of inmate personal property that includes storage for those inmates who are placed on work release.

(g) A control center shall have:

- (1) a security vestibule at its entrance; and
- (2) a room with a toilet and sink that is contiguous to the control room.

*History Note: Authority G.S. 153A-221;*



*Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1212 FLOORS, CEILINGS, AND WALLS**

- (a) Ceilings and walls in confinement units, cellblocks, dayrooms, the inmate processing area, and the medical area shall have a finished surface that is cleanable, nontoxic, and of light colors.
- (b) Floors in confinement units, cellblocks, dayrooms, the inmate processing area, and the medical area shall have a finished surface that is cleanable and nontoxic.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. December 1, 1991;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1213 SHOWERS AND PLUMBING FIXTURES**

- (a) Each jail shall provide at least one shower for every eight inmates.
- (b) A shower stall floor shall be sloped to a floor drain that prevents water from draining outside the shower stall. The floor used to access the shower stall that is outside of the stall but contiguous to the shower stall floor shall be sloped to a floor drain.
- (c) In inmate accessible areas, the shower fixture and floor drain cover shall be security-type and tamper-resistant as rated by the manufacturer.
- (d) In inmate accessible areas, plumbing fixtures shall be made of stainless steel or other similar materials that are rated as security-type and tamper-resistant by the manufacturer.
- (e) All privacy partitions in showers and bathrooms shall be high enough to allow limited privacy for the inmates while still allowing supervision of the inmates by officers.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1214 WINDOWS AND GLAZING**

- (a) If glazing affords persons from outside of the jail a view of inmates inside the jail, the glazing shall:
  - (1) admit natural light into the confinement unit or dayroom;
  - (2) be diffused or obscured to prevent persons from outside the jail from observing inmates inside the jail.
- (b) A view panel used to observe a confinement unit shall have an area that permits observation of the entire unit.
- (c) For a single segregation cell, a window to the outdoors shall be provided either in the cell or in the corridor that is contiguous to the cell. If the window is provided in the cell, it shall have a gross window area measuring not less than three square feet. If the window is provided in the corridor that is contiguous to the cell, the gross window area of the corridor shall be equivalent to the sum of two square feet per inmate whose segregation cell is contiguous to the corridor or 48 square feet, whichever is greater.

The cell door shall have a window area measuring not less than 96 square inches.

(d) Unless natural light is provided to a single cell or multiple occupancy cell from a dayroom as set forth in Paragraph (e) of this Rule, a cell shall have windows to the outdoors. The windows shall comply with the following:

- (1) a single cell shall have a gross window area measuring not less than three square feet;
- (2) a multiple occupancy cell with two inmates shall have a gross window area measuring not less than three square feet; and
- (3) a multiple occupancy cell with three or more inmates shall have a gross window area measuring not less than five square feet.

(e) Unless natural light is provided to a single cell or multiple occupancy cell as set forth in Paragraph (d) of this Rule, a dayroom contiguous to the single cell or multiple occupancy cell shall have windows to the outdoors. The gross window area of the dayroom shall be equivalent to the sum of two square feet per inmate whose single cell or multiple occupancy cell is contiguous to the dayroom or 48 square feet, whichever is greater. Unless the front of the cell has metal bars, each cell door of the dayroom shall have a view panel with:

- (1) an area measuring not less than three square feet; and
- (2) transparent glazing.

(f) A dormitory shall have windows to the outdoors with a gross window area measuring not less than two square feet per inmate or 48 square feet, whichever is greater.

(g) An exterior window that is less than 18 feet above finished floor in a room or area where inmates are located shall be designed and constructed with either the height or width of its framed or barred opening not more than 5 inches in length. For the purposes of this Paragraph, a "framed or barred opening" means the area available for escape after glazing is broken and removed from a window.

(h) Windows, skylights, or a combination of windows and skylights may be used in dormitories and dayrooms to comply with the requirements of this Rule.

(i) A solar tubular skylight shall not be used to comply with this Rule. For the purposes of this Rule, a "solar tubular skylight" means a tubular daylighting device that delivers natural light from the outdoors to an interior space that is unreachable by a window and skylight installed in an exterior wall or roof.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. December 1, 1991;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1215 DOORS, BUNKS, LOCKS, AND FASTENERS**

- (a) A jail shall provide doors, locks, and detention hardware that are rated by the manufacturer as security-type and as acceptable for use in correctional facilities.
- (b) Fasteners used in inmate accessible areas shall be rated by the manufacturer as security-type and tamper-resistant.
- (c) Doors to confinement units, cellblocks, inmate accessible corridors, and dayrooms shall have view panels.

- (d) A security vestibule and a sally port shall have:
- (1) one or more interior doors or gates and an entrance door or gate;
  - (2) doors or gates provided with an interlocking security feature;
  - (3) interior doors or gates arranged to be locked and unlocked by means located outside of the security vestibule, sally port, dormitory, dayroom, and cellblock; and
  - (4) doors or gates provided with override capability to unlock all doors or gates in the event of an emergency.
- (e) Doors and locks that are electronically controlled shall be equipped with manual override.
- (f) Food passes in doors, if used, shall have openings large enough to permit the passage of a food tray.
- (g) Single segregation cells and single cells shall have a single bunk. Multiple occupancy cells and dormitories shall have single bunks or double bunks. A bunk shall:
- (1) have dimensions large enough to accommodate a detention mattress;
  - (2) be anchored not less than 15 inches above the floor, if a single bunk or a lower bunk of a double bunk;
  - (3) be anchored not less than 50 inches above the floor, if an upper bunk of a double bunk;
  - (4) be anchored flush to the wall;
  - (5) have a lip to hold the mattress in place; and
  - (6) have tamper-resistant construction.
- (h) Cells required to be accessible for persons with disabilities as required by the North Carolina State Building Code shall not have an upper bunk.
- (i) Inmate accessible areas of the jail shall be equipped or furnished in a manner that decreases suicide hazards within the jail. Jails shall provide items to reduce suicide hazards for inmates, including the following:
- (1) handrails or grab bars with a closure plate that is installed between the wall and the handrail or grab bar;
  - (2) exposed door hinges with a sloped top and bottom;
  - (3) non-vertical surfaces of door hardware with a slope;
  - (4) holes in the bunk mattress platform that are no more than 1/8 inch in diameter;
  - (5) shower heads that are not hand-held with a hose; and
  - (6) heating, ventilating, and air conditioning supply and return grilles with openings not more than 3/16 inches wide, if the supply and return grilles are located in a cell used to house inmates on special watch.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

#### **10A NCAC 14J .1218 PLUMBING SYSTEMS**

- (a) A jail shall have a hot water supply for lavatories and showers designed to meet the needs of the number of inmates confined in the jail, as determined by the governing body. The hot water temperature at lavatories and showers used by inmates shall be maintained at a minimum of 100 degrees F (38 degrees C) and shall not exceed 116 degrees F (46.7 degrees C).
- (b) A jail shall not locate the following valves of the water supply system in rooms or areas accessible by inmates:
- (1) a shut-off valve for a supply branch line serving plumbing fixtures;
  - (2) a shut-off valve for a riser pipe serving plumbing fixtures; and
  - (3) a shut-off valve to a plumbing fixture.
- (c) The shut-off valves listed in Paragraph (b) of this Rule shall be accessible to officers.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1992;  
Readopted Eff. Pending Legislative Review.*

#### **10A NCAC 14J .1219 ELECTRICAL SYSTEMS**

- (a) Each jail shall have an electrical system that provides artificial lighting of not less than:
- (1) 30 footcandles of light at floor level in confinement units and dayrooms that can be reduced during sleeping hours; and
  - (2) 20 footcandles of light at floor level in corridors.
- (b) In inmate accessible areas, lighting fixtures shall be security-type and tamper-resistant as rated by the manufacturer.
- (c) In inmate accessible areas, a fire alarm system notification appliance shall be rated as tamper-resistant by the manufacturer or enclosed in a metal guard. For the purposes of this Rule, "notification appliance" means a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72.
- (d) A jail shall provide an electrical connection and an antenna or cable connection for a television in its dayroom areas.
- (e) The main electrical distribution panel and electrical subpanels shall not be located in areas accessible by inmates and shall be accessible to officers during an emergency.
- (f) A jail shall provide emergency power to areas, equipment, and systems as required by the North Carolina State Building Codes. A jail may provide additional emergency power to maintain jail operations and functions needed during a power outage. If the following functions are not provided with emergency power, the disaster plan required by Rule .0403 of this Subchapter shall indicate how these functions will be maintained during a power outage:
- (1) operating equipment and systems located in the control center;
  - (2) heating, ventilation, and air conditioning of the jail;
  - (3) heating of hot water for inmate lavatories and showers; and
  - (4) preparing and cooking of inmate meals, if meals are prepared in the jail.

(g) If the fire alarm control panel is not located in the control center, a jail may install a remote annunciator panel in the control center to provide officers with fire alarm status information from the fire alarm control panel. For the purposes of this Rule, the terms "fire alarm control panel" and "remote annunciator panel" mean a component of the fire alarm system as defined by the National Fire Protection Association, National Fire Alarm and Signaling Code, NFPA 72.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1225 STANDARDS FOR DAYROOMS**

Each dayroom shall have:

- (1) a security vestibule at its entrance;
- (2) a floor space of not less than 105 square feet or 35 square feet per inmate, whichever is greater;
- (3) seating for the capacity of the cellblock;
- (4) table space for the capacity of the cellblock, unless each inmate has unrestricted access to their cell with a table and chair, in which case the dayroom shall have table space for 70 percent of the capacity of the cellblock;
- (5) a telephone jack or access to a telephone provided within the dayroom;

**10A NCAC 15 .1106 RADIOACTIVE MATERIALS AND ACCELERATOR FEE AMOUNTS**

(a) Annual fees for persons licensed pursuant to the provisions of Section .0300 of this Chapter shall be:

| Type of Radioactive Material License  | Annual Fee   |
|---|--------------|
| Specific license of broad scope including:  |              |
| -academic or research and development (R&D)   | \$ 5,180.00  |
| -manufacture or distribution  | \$ 6,100.00  |
| -medical  | \$ 6,760.00  |
| Specific license including:   |              |
| -educational institutions, R&D laboratories   | \$ 2,960.00  |
| -industrial radiography   | \$ 5,400.00  |
| -irradiator >10,000Ci   | \$ 19,140.00 |
| -irradiator ≤10,000Ci   | \$ 2,160.00  |
| -manufacture or distribution  | \$ 2,320.00  |
| -medical (human use), diagnostic  | \$ 2,940.00  |
| -medical (human use), therapeutic   | \$ 4,760.00  |
| -services, consultants, gauges (all types), or not specified above                                | \$ 1,860.00  |
| -well logging, subsurface tracer studies  | \$ 3,200.00  |
| General license including:  |              |
| -not subject to annual registration requirements  | \$ 200.00    |
| -subject to annual registration requirements  | \$ 325.00    |
| -possession of self-luminous devices under Rule .0309 of this Chapter                             | no fee       |
| -possession of source material from water remediation activities under Rule .0307 of this Chapter | no fee       |

(b) Annual fees for persons licensed pursuant to the provisions of Section .0900 of this Chapter shall be four thousand seven hundred sixty dollars (\$4,760.00).

(c) Fees for out-of-state persons granted permission to use sources of radiation in this State pursuant to Rule .0345 of this Chapter are the same as that provided for in the applicable

- (6) a way for officers to observe the entire area;
- (7) one toilet, sink, and security mirror per eight inmates, unless the inmates have unrestricted access to their cell with a toilet, sink, and security mirror; and
- (8) one drinking fountain, unless the inmates have unrestricted access to their cell with a drinking fountain.

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. June 1, 1993; December 1, 1991;  
Readopted Eff. Pending Legislative Review.*

**10A NCAC 14J .1226 STANDARDS FOR DORMITORIES**

A dormitory shall meet the requirements of G.S. 153A-221(d).

*History Note: Authority G.S. 153A-221;  
Eff. June 1, 1990;  
Amended Eff. December 1, 1991;  
Readopted Eff. Pending Legislative Review.*

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category specified in Paragraphs (a) and (b) of this Rule. The fees shall be due when the application for reciprocal recognition of out-of-state license is made.

(d) Each location listed on a license issued by the Agency that is not part of a contiguous property controlled by the licensee shall require an additional fee equal to the amount specified in

Paragraphs (a) and (b) of this Rule. Fees for client locations listed on mobile medical licenses shall be one-half of the amount specified in Paragraphs (a) or (b) of this Rule for each client site.

(e) Persons licensed to conduct activities subject to multiple categories of fees under Paragraph (a) of this Rule shall be required to pay only the highest fee category.

(f) Persons possessing Sealed Source and Device Registration (SS&D) certificates shall pay an annual fee of one thousand four hundred eighty dollars (\$1,480.00) per active SS&D certificate issued by the Agency, in addition to any amounts specified in Paragraph (a) of this Rule.

*History Note: Authority G.S. 104E-9(a)(8); 104E-19(a); Eff. August 1, 2007;*  
*Amended Eff. July 1, 2011;*  
*Transferred and Recodified from 15A NCAC 11 .1106 Eff. February 1, 2015;*  
*Amended Eff. May 1, 2019.*

## **TITLE 15A - DEPARTMENT OF ENVIRONMENTAL QUALITY**

### **15A NCAC 10A .1001 WARNING TICKETS**

Warning Tickets Prohibited. Wildlife Enforcement Officers shall not issue warning tickets for the following offenses and classes of offenses:

- (1) second offense of the same charge;
- (2) exceeding bag or creel limits;
- (3) unlawful taking of fish or wildlife by use of drugs, poison, explosives, or electricity;
- (4) hunting, fishing, or trapping in closed season;
- (5) unlawful taking of deer or fox;
- (6) unlawful taking or possession of bear or wild turkey;
- (7) unlawful purchase or sale of wildlife, except when possession of a Trophy Wildlife Sale Permit would otherwise make purchase or sale lawful; and
- (8) taking wildlife with the aid of or from a motor vehicle or boat under power or while in motion.

*History Note: Authority G.S. 113-140;*  
*Eff. April 1, 1991;*  
*Amended Eff. May 1, 2007; May 1, 2004; November 2, 1992;*  
*November 1, 1991;*  
*Readopted Eff. August 1, 2019.*

### **15A NCAC 10A .1501 SUMMARY DISPOSITION**

The Executive Director or his or her designee may determine the summary disposition of fish or wildlife seized by the Commission. Summary disposition shall be determined in accordance with G.S. 113-137(d), on a case-by-case basis, taking into consideration factors that may include public health and safety, conservation objectives of the Commission, and the health or genetic integrity of native wildlife resources. Summary disposition may include release, relocation, or euthanasia.

*History Note: Authority G.S. 113-137;*

*Eff. August 1, 2019.*

### **15A NCAC 10B .0116 PERMITTED ARCHERY EQUIPMENT**

- (a) "Archery equipment" means any device that has a solid, stationary handle, two limbs, and a string, that uses non-pneumatic means to propel a single arrow or bolt and may be used to take game and nongame species.
- (b) Longbows and recurved bows having a minimum pull of 40 pounds, compound bows having a minimum pull of 35 pounds, and crossbows having a minimum pull of 100 pounds shall be used for taking bear, deer, elk, wild turkey, alligator, and feral swine.
- (c) Archery equipment utilizing an elastic string and having a minimum pull of 40 pounds may be used to take wild turkey, small game animals, nongame animals, and nongame fish.
- (d) Only arrows and bolts with a fixed minimum broadhead width of seven-eighths of an inch or a mechanically opening broadhead with a width of at least seven-eighths of an inch in the open position shall be used for taking bear, deer, elk, wild turkey, alligator, and feral swine.
- (e) Blunt-type arrow heads may be used in taking small animals and birds including rabbits, squirrels, quail, grouse, and pheasants.
- (f) Poisonous, drugged, or explosive arrowheads shall not be used for taking any wildlife.

*History Note: Authority G.S. 113-134; 113-291.1(a); Eff. September 1, 1980;*  
*Amended Eff. August 1, 2014; August 1, 2012; July 10, 2010; May 1, 2007; August 1, 2002; July 1, 2000; July 1, 1998; July 1, 1996;*  
*August 1, 1990;*  
*Readopted Eff. August 1, 2019.*

### **15A NCAC 10B .0124 IMPORTATION OF ANIMAL PARTS**

- (a) Unless otherwise provided in this Rule, it shall be unlawful to import, transport, or possess a cervid carcass or carcass part originating from outside of North Carolina except:
- (1) meat that has been boned out such that no pieces or fragments of bone remain;
  - (2) caped hides with no part of the skull or spinal column attached;
  - (3) antlers, antlers attached to cleaned skull plates, or skulls free from meat or brain tissue;
  - (4) cleaned lower jawbones with teeth or cleaned teeth; or
  - (5) finished taxidermy products and tanned hides.
- (b) Any cervid carcass, carcass part, or container of cervid meat or carcass parts listed in Subparagraph (a)(1) through (4) of this Rule shall be labeled or identified with the following information:
- (1) the individual's name and address;
  - (2) the state, Canadian province, or foreign country of origin; and
  - (3) the date the cervid was killed and the individual's hunting license number, permit number, or equivalent identification from the state, Canadian province, or foreign country of origin.

(c) It shall be lawful to import, transport, or possess a caped hide with only the head attached from a white-tailed deer lawfully taken in South Carolina, if delivered to a licensed North Carolina taxidermist within 24 hours of entering the State. The hide and head shall be double plastic bagged and labeled or identified with the information required in Paragraph (b) of this Rule and the name of the county in South Carolina where the white-tailed deer was killed. This Paragraph shall expire on August 1, 2020 or upon the Commission's confirmation of the discovery of Chronic Wasting Disease in a cervid from South Carolina, whichever occurs first. Upon expiration, all restrictions and requirements of Paragraph (a) shall apply.

*History Note: Authority G.S. 113-291.2;  
Eff. May 1, 2006;  
Temporary Amendment Eff. August 1, 2018;  
Amended Eff. August 1, 2019.*

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

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

- (1) Monday on or nearest October 15 through the Saturday before Thanksgiving and the third Monday after Thanksgiving through January 1 in and west of Surry, Wilkes, Caldwell, Burke, and Cleveland counties;
- (2) Second Monday in November through January 1 in Bladen, Brunswick, Carteret, Columbus, Cumberland, Duplin, New Hanover, Onslow, Pamlico, Pender, Robeson, and Sampson counties;
- (3) Second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Beaufort, Bertie, Craven, Hertford, Jones, Martin, and Washington counties;
- (4) Second Saturday in November through the third Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Dare, Hyde, and Tyrrell counties;
- (5) Second Saturday in November through the second Sunday thereafter and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Currituck, Gates, and Perquimans counties;
- (6) Second Sunday in November through the following Sunday and the third Saturday after Thanksgiving through the fifth Sunday after Thanksgiving in Camden, Chowan, and Pasquotank counties;
- (7) Third Saturday in November through the fifth Sunday thereafter in Edgecombe, Greene, Halifax, Lenoir, Nash, Northampton, Pitt, Wayne, and Wilson counties; and
- (8) 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. It shall be unlawful to take bear on posted bear sanctuaries except when authorized by permit issued by the Commission. See 15A NCAC 10D .0106 for posted bear sanctuaries.

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

*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, 2018; August 1, 2017; August 1, 2016;*  
*Temporary Amendment Eff. August 1, 2018;*  
*Amended Eff. August 1, 2019.*

**15A NCAC 10B .0206 SQUIRRELS**

(a) Squirrel Open Seasons:

- (1) Gray and red squirrels may be taken by hunting on the Monday on or closest to October 15 to the last day of February.
- (2) Fox squirrels may be taken by hunting on the Monday on or nearest October 15 to January 31.

(b) Squirrel Bag Limits:

- (1) The daily bag limit for gray and red squirrels is eight and there are no season and no possession limits.
- (2) The daily bag limit for fox squirrels is one; the possession limit is two; and the season limit is 10.

*History Note Authority G.S. 113-134; 113-291.2;*  
*Eff. February 1, 1976;*  
*Amended Eff. August 1, 2013; August 1, 2010; May 1, 2009; May 1, 2008; May 1, 2006; July 1, 1995; July 1, 1987; July 1, 1986;*  
*July 1, 1985;*  
*Readopted Eff. August 1, 2019.*

**15A NCAC 10B .0207 RABBITS**

(a) Rabbit Open Season: The open season for taking rabbits shall be from the Monday on or nearest October 15 through the last day of February.

(b) Rabbit Bag Limits: The daily bag limit for rabbits is five and there are no season and no possession limits.

(c) Rabbit Box-traps: During the hunting season specified in Paragraph (a) of this Rule and subject to the bag limits set forth in Paragraph (b) of this Rule, rabbits may be taken with box-traps. A valid hunting license shall serve as a transportation permit for live rabbits taken pursuant to this Rule.

*History Note: Authority G.S. 113-134; 113-274; 113-291.1; 113-291.2;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1987; July 1, 1986; July 1, 1985; July 1, 1984;*  
*Temporary Amendment Eff. August 1, 1998;*  
*Amended Eff. August 1, 2018; May 1, 2008; April 1, 1999;*  
*Readopted Eff. August 1, 2019.*

**15A NCAC 10B .0303 OPEN SEASONS**

(a) General. The open season for the taking by trapping of fur-bearing animals as those animals are defined in G.S. 113-129(7a), as well as the taking by trapping of coyotes, armadillos, and groundhogs, shall be November 1 through the last day of February, subject to the following:

- (1) trapping coyotes shall also be allowed during local fox trapping seasons and in accordance with methods described by local law in counties that have established fox trapping seasons by law outside the regular trapping season described in Paragraph (a); and
  - (2) nutria may be trapped east of I-77 at any time.
- (b) Feral Swine. There is no closed season for trapping feral swine, subject to the following restrictions:
- (1) in addition to a hunting or trapping license, a permit issued by the Wildlife Resources Commission is required to trap feral swine. Individuals exempted from license requirements under the provisions specified in G.S. 113-276 may trap feral swine without a hunting or trapping license, but must acquire the permit;
  - (2) feral swine may be live-trapped using only corral or box traps. Corral and box traps must be constructed in a manner such that a non-target animal can be released or can escape without harm. The permit number must be displayed on all traps; and
  - (3) feral swine must be euthanized while in the trap and may not be removed alive from any trap.

Note: See 15A NCAC 10D .0102(f) for other trapping restrictions on game lands.

*History Note: Authority G.S. 113-134; 113-291.1; 113-291.2;*  
*113-291.12;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1996; July 1, 1984; July 1, 1983; August 1, 1982; August 1, 1981;*  
*Temporary Amendment Eff. July 1, 1999;*  
*Amended Eff. July 1, 2000;*  
*Temporary Amendment Eff. June 1, 2003;*  
*Amended Eff. August 1, 2010; May 1, 2009; November 1, 2008;*  
*May 1, 2008; May 1, 2007; May 1, 2006; June 1, 2005; August 1, 2004;*  
*Recodified from Rule 10B .0302 Eff. January 1, 2011;*  
*Temporary Amendment Eff. December 29, 2011;*  
*Amended Eff. November 1, 2012;*  
*Readopted Eff. August 1, 2019.*

**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  
Little River (275 yards downstream from the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank] to McCann Dam)  
Meadow Fork  
Pine Swamp Creek  
Piney Fork  
Prathers Creek
- (C) Wild Trout Waters are as follows:  
All waters located on Stone Mountain State Park
- (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 (SR 1372 bridge to North Fork 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 confluence of Beaver Creek and South Beaver Creek)  
 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)
- (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  
 Reems Creek (Sugar Camp Fork to U.S. 19-23 bridge, except where posted against trespassing)  
 Rich Branch (downstream from the confluence with Rocky Branch)  
 Stony Creek  
 Swannanoa (S.R. 2702 bridge near Ridgecrest to Wood Avenue bridge [intersection of N.C. 81 and U.S. 74A in Asheville], except where posted against trespassing)
- (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
- Gragg Prong  
 Horse Creek  
 Kentucky Creek  
 North Harper Creek  
 Pluntree Creek  
 Roaring Creek  
 Rockhouse Creek  
 Shawneehaw Creek (portion adjacent to Banner Elk Greenway)  
 South Harper Creek  
 Webb Prong



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|     | below Lake James powerhouse from upstream bridge on S.R. 1223 to Muddy Creek)  |      | North Shoal Creek (game land portion)  |
| (D) | Special Regulation Trout Waters are as follows:<br>Catawba River (Muddy Creek to City of Morganton water intake dam)   | (8)  | Clay County  |
| (E) | Wild Trout Waters are as follows:<br>All waters located on South Mountains State Park, except those waters identified in Parts A and B of this Subparagraph  | (A)  | Delayed Harvest Trout Waters are as follows:<br>Fires Creek (USFS Rd. 340A to the foot bridge in the USFS Fires Creek Picnic Area)   |
| (6) | Caldwell County  | (B)  | Hatchery Supported Trout Waters are as follows:<br>Buck Creek (game land portion downstream of U.S. 64 bridge)<br>Fires Creek (foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300)<br>Tusquitee Creek (Compass Creek to lower S.R. 1300 bridge)  |
| (A) | Delayed Harvest Trout Waters are as follows:<br>Wilson Creek (game land portion below Lost Cove Creek to Philips Branch)   | (9)  | Graham County  |
| (B) | Hatchery Supported Trout Waters are as follows:<br>Boone Fork Pond<br>Buffalo Creek (mouth of Joes Creek to McCloud Branch)<br>Joes Creek (first falls upstream of S.R. 1574 to confluence with Buffalo Creek)<br>Wilson Creek (Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing)<br>Yadkin River (Happy Valley Ruritan Community Park to S.R. 1515) | (A)  | Delayed Harvest Trout Waters are as follows:<br>(Big) Snowbird Creek (USFS footbridge at the old railroad junction to USFS Rd. 2579)   |
| (C) | Wild Trout Waters are as follows:<br>Buffalo Creek (Watauga Co. line to Long Ridge Branch including game land tributaries)<br>Joes Creek (Watauga Co. line to first falls upstream of the end of S.R. 1574)<br>Rockhouse Creek   | (B)  | Hatchery Supported Trout Waters are as follows:<br>Calderwood Reservoir (Cheoah Dam to Tennessee state line)<br>Cheoah Reservoir<br>Panther Creek (confluence of Stand Creek and Rock Creek to Lake Fontana)<br>Santeetlah Creek (Johns Branch to Lake Santeetlah)<br>(Big) Snowbird Creek (USFS Road 2579 to S.R. 1127 bridge)<br>Stecoah Creek (upper game land boundary to Lake Fontana)<br>Tulula Creek (S.R. 1201 to lower bridge on S.R. 1275)<br>West Buffalo Creek |
| (7) | Cherokee County  |      | Yellow Creek (Lake Santeetlah hydropower pipeline to Cheoah River)   |
| (A) | Hatchery Supported Trout Waters are as follows:<br>Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)<br>Hyatt Creek (Big Dam Branch to Valley River)<br>Junaluska Creek (Ashturn Creek to Valley River)<br>Shuler Creek (Joe Brown Hwy [S.R. 1325] bridge to Tennessee state line)<br>Valley River (S.R. 1359 to U.S. 19 Business bridge in Murphy)               | (C)  | Wild Trout Waters are as follows:<br>Little Buffalo Creek<br>South Fork Squally Creek<br>Squally Creek   |
| (B) | Special Regulation Trout Waters are as follows:<br>Apalachia Reservoir   | (D)  | Wild Trout Waters/Natural Bait are as follows:<br>Deep Creek<br>Franks Creek<br>Long Creek (game land portion)   |
| (C) | Wild Trout Waters/Natural Bait are as follows:<br>Bald Creek (game land portion)<br>Dockery Creek (game land portion)  | (10) | Haywood County   |
|     |  | (A)  | Delayed Harvest Trout Waters are as follows:<br>West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)  |
|     |  | (B)  | Hatchery Supported Trout Waters are as follows:  |

- Cold Springs Creek (Fall Branch to Pigeon River)  
Jonathan Creek (upstream S.R. 1302 bridge to Pigeon River, except where posted against trespassing)  
Pigeon River (Stamey Cove Branch to upstream U.S. 19-23 bridge)  
Richland Creek (Russ Avenue [U.S. 276] bridge to U.S. 19 bridge)  
West Fork Pigeon River (Tom Creek to Queen Creek, including portions on game lands, except Middle Prong)
- (C) Wild Trout Waters/Natural Bait are as follows:  
Hemphill Creek  
Hurricane Creek
- (11) Henderson County  
(A) Delayed Harvest Trout Waters are as follows:  
North Fork Mills River (game land portion below the Hendersonville watershed dam)  
(B) Hatchery Supported Trout Waters are as follows:  
(Rocky) Broad River (end of S.R. 1611 to Rutherford County line)  
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 (S.R. 1885 to Green River)
- (12) Jackson County  
(A) Catch and Release/Artificial Lures Only Trout Waters are as follows:  
Flat Creek  
Tuckasegee River (upstream from the Clark property)  
(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) 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
- (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)
- (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)  
Scotsman Creek (game land portion)
- (13) Macon County  
(A) Delayed Harvest Trout Waters are as follows:  
Nantahala River (Whiteoak Creek to Nantahala hydropower discharge canal)  
(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)  
Nantahala River — upper (Dicks Creek to Whiteoak Creek)  
Nantahala River — lower (Nantahala hydropower discharge canal to Swain Co. line)  
Queens Creek Lake
- (C) Wild Trout Waters/Natural Bait are as follows:  
Chattooga River (S.R. 1100 bridge to South Carolina state line)  
Jarrett Creek (game land portion)

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|      | Kimsey Creek   |      | Mill Creek (U.S. 70 bridge to I-40 bridge)   |
|      | Overflow Creek (game land portion)   |      | (C) Hatchery Supported Trout Waters are as follows:  |
|      | Park Creek   |      | Armstrong Creek (Cato Holler line downstream to upper Greenlee line)   |
|      | Tellico Creek (game land portion)  |      | Catawba River (Catawba Falls Campground to Old Fort Recreation Park)   |
|      | Turtle Pond Creek (game land portion)  |      | Little Buck Creek (game land portion)  |
| (14) | Madison County   |      | Mill Creek (upper railroad bridge to U.S. 70 bridge, except where posted against trespassing)                    |
| (A)  | Delayed Harvest Trout Waters are as follows:   |      | North Fork Catawba River (headwaters to North Cove School at S.R. 1569 bridge)                                   |
|      | 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)                                | (16) | Mitchell County  |
|      | Spring Creek (N.C. 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Ave.)                        | (A)  | Delayed Harvest Trout Waters are as follows:   |
| (B)  | Hatchery Supported Trout Waters are as follows:  |      | Cane Creek (N.C. 226 bridge to S.R. 1189 bridge)   |
|      | Big Laurel Creek (Puncheon Fork to the S.R. 1318 [Big Laurel Rd.] bridge downstream of Bearpen Branch)                 |      | North Toe River (U.S. 19E bridge to N.C. 226 bridge)   |
|      | Big Pine Creek (S.R. 1151 bridge to French Broad River)  | (B)  | Hatchery Supported Trout Waters are as follows:  |
|      | Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy) |      | Big Rock Creek (headwaters to N.C. 226 bridge at S.R. 1307 intersection)   |
|      | Max Patch Pond   |      | Cane Creek (S.R. 1219 to N.C. 226 bridge)  |
|      | Meadow Fork Creek (Meadow Fork Campground to Spring Creek)   |      | East Fork Grassy Creek   |
|      | Puncheon Fork (Hampton Creek to Big Laurel Creek)  |      | Grassy Creek (East Fork Grassy Creek to mouth)   |
|      | Roaring Fork (Fall Branch to Meadow Fork)  |      | Little Rock Creek (Green Creek bridge to Big Rock Creek, except where posted against trespassing)                |
|      | Shelton Laurel Creek (confluence of Big Creek and Mill Creek to N.C. 208 bridge at Belva)                              |      | North Toe River (Avery Co. line to S.R. 1121 bridge)   |
|      | Shut-in Creek  | (C)  | Wild Trout Waters are as follows:  |
|      | Spillcorn Creek  |      | Green Creek (headwaters to Green Creek bridge, except where posted against trespassing)                          |
|      | Spring Creek (junction of N.C. 209 and N.C. 63 to USFS Rd. 223)  |      | Little Rock Creek (above Green Creek bridge, including all tributaries, except where posted against trespassing) |
|      | West Fork Shut-in Creek (lower game land boundary to confluence with East Fork Shut-in Creek)                          |      | Wiles Creek (game land boundary to mouth)  |
| (C)  | Wild Trout Waters/Natural Bait are as follows:   | (17) | Polk County  |
|      | Big Creek (headwaters to the lower game land boundary)   | (A)  | Delayed Harvest Trout Waters are as follows:   |
| (15) | McDowell County  |      | Green River (Fishtop Falls Access Area to the confluence with Cove Creek)  |
| (A)  | Catch and Release/Artificial Lures Only Trout Waters are as follows:   |      | (B) Hatchery Supported Trout Waters are as follows:  |
|      | Newberry Creek (game land portion)   |      | Green River (Mouth of Cove Creek to the natural gas pipeline crossing)   |
| (B)  | Delayed Harvest Trout Waters are as follows:   |      | North Pacolet River (Joels Creek to N.C. 108 bridge)   |
|      | Catawba River (portion adjacent to Marion Greenway)  | (18) | Rutherford County  |
|      | Curtis Creek (game land portion downstream of the USFS boundary at Deep Branch)  |      |  |

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| <p>(A) Hatchery Supported Trout Waters are as follows:<br/>(Rocky) Broad River (Henderson Co. line to U.S. 64/74 bridge, except where posted against trespassing)</p> <p>(19) Stokes County</p> <p>(A) Hatchery Supported Trout Waters are as follows:<br/>Dan River (Virginia state line downstream to a point 200 yards below the end of S.R. 1421)</p> <p>(20) Surry County</p> <p>(A) Delayed Harvest Trout Waters are as follows:<br/>Ararat River (portion adjacent to the Ararat River Greenway)<br/>Mitchell River (.6 mile upstream of the end of S.R. 1333 to the S.R. 1330 bridge below Kapps Mill Dam)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Ararat River (S.R. 1727 bridge downstream to the N.C. 103 bridge)<br/>Big Elkin Creek (dam 440 yards upstream of N.C. 268 bridge to a point 265 yards downstream of N.C. 268 [marked by a sign on each bank])<br/>Fisher River (Cooper Creek)(Virginia state line to I-77 bridge)<br/>Little Fisher River (Virginia state line to N.C. 89 bridge)<br/>Lovills Creek (U.S. 52 Business bridge to Ararat River)<br/>Pauls Creek (Virginia state line to .3 miles below S.R. 1625 bridge)</p> <p>(21) Swain County</p> <p>(A) Delayed Harvest Waters Trout Waters are as follows:<br/>Tuckasegee River (U.S. 19 bridge to Slope Street bridge)</p> <p>(B) Hatchery Supported Trout Waters are as follows:<br/>Alarka Creek (game land boundary to Fontana Reservoir)<br/>Calderwood Reservoir (Cheoah Dam to Tennessee state line)<br/>Cheoah Reservoir<br/>Connelly Creek (Camp Branch to Tuckasegee River)<br/>Deep Creek (Great Smoky Mountains National Park Boundary line to Tuckasegee River)<br/>Nantahala River (Macon Co. line to existing Fontana Lake water level)</p> <p>(22) Transylvania County</p> <p>(A) Catch and Release/Artificial Flies Only Trout Waters are as follows:<br/>Davidson River (headwaters to Avery Creek, excluding Avery Creek,</p> | <p>Looking Glass Creek and Grogan Creek)</p> <p>(B) Delayed Harvest Trout Waters are as follows:<br/>East Fork French Broad River (East Fork Baptist Church to the downstream S.R. 1107 bridge)<br/>Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls)</p> <p>(C) Hatchery Supported Trout Waters are as follows:<br/>Davidson River (Avery Creek to lower USFS boundary)<br/>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<br/>Middle Fork French Broad River (upstream U.S. 178 bridge to French Broad River)<br/>West Fork French Broad River (Camp Cove Branch to confluence with North Fork French Broad River)</p> <p>(D) Wild Trout Waters are as follows:<br/>All waters located on Gorges State Park<br/>Whitewater River (downstream from Silver Run Creek to South Carolina state line)</p> <p>(E) Wild Trout Waters/Natural Bait are as follows:<br/>North Fork French Broad River (game land portion downstream of S.R. 1326)<br/>Thompson River (S.R. 1152 to South Carolina state line, except where posted against trespassing)</p> <p>(23) Watauga County</p> <p>(A) Catch and Release/Artificial Lures Only Trout Waters are as follows:<br/>Laurel Creek (confluence of North and South Fork Laurel creeks to Elk Creek, excluding tributaries)<br/>Pond Creek (headwaters to Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake)</p> <p>(B) Delayed Harvest Trout Waters are as follows:<br/>Lake Coffey<br/>Watauga River (adjacent to intersection of S.R. 1557 and S.R. 1558 to N.C. 105 bridge and S.R. 1114 bridge to the Valle Crucis Community Park lower boundary)</p> <p>(C) Hatchery Supported Trout Waters are as follows:</p> |
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- 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
- South Fork New River (canoe launch 70 yards upstream of U.S. 421 bridge to lower boundary of Brookshire Park)
- Stony Fork (S.R. 1500 bridge at S.R. 1505 intersection to Wilkes Co. line)
- (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)
- (24) Wilkes County
- (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)
- (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)
- Middle Fork Reddies River (Clear Prong)(headwaters to bridge on S.R. 1580)
- Middle Prong Roaring River (headwaters to bridge on S.R. 1736)
- 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)
- (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
- (25) Yancey County
- (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:

- (C) Cane River (Blackberry Ridge Rd. to downstream boundary of Cane River County Park)  
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, 2018; 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;*  
*Readopted Eff. August 1, 2019.*

**15A NCAC 10C .0211 POSSESSION OF CERTAIN FISHES**

(a) It shall be unlawful to transport, purchase, possess, sell, or stock in the public or private waters of North Carolina any live individuals of:

- (1) piranha;
- (2) "walking catfish" (*Clarias batrachus*);
- (3) snakehead fish (from the Family Channidae, formerly Ophiocephalidae);
- (4) black carp (*Mylopharyngodon piceus*);
- (5) bighead carp (*Hypophthalmichthys nobilis*);
- (6) silver carp (*Hypophthalmichthys molitrix*);
- (7) rudd (*Scardinius erythrophthalmus*);
- (8) round goby (*Neogobius melanostomus*);
- (9) tubenose goby (*Proterorhinus marmoratus*);
- (10) ruffe (*Gymnocephalus cernuus*);

- (11) Japanese mysterysnail (*Cipangopaludina japonica*);
- (12) Chinese mysterysnail (*Cipangopaludina chinensis malleata*);
- (13) red-rim melania (*Melanoides tuberculatus*);
- (14) virile crayfish (*Orconectes (Gremicambarus) virilis*);
- (15) rusty crayfish (*Orconectes (Procericambarus) rusticus*);
- (16) Australian red claw crayfish or "red claw" (*Cherax quadricarinatus*, or other species of "giant" crayfish species in the genus *Cherax*);
- (17) white amur or "grass carp" (*Ctenopharyngodon idella*);
- (18) swamp or "rice" eel (*Monopterus albus*);
- (19) red shiner (*Cyprinella lutrensis*);
- (20) zebra mussel (*Dreissena polymorpha*); or
- (21) quagga mussel (*Dreissena rostriformis bugensis*) or any mussel in the family Dreissenidae.

(b) A person may buy, possess, or stock grass carp that have been certified to be triploid or sterile, only for the purpose of controlling aquatic vegetation under a permit issued by the Executive Director or his or her designee based on an evaluation of the potential for escapement and threat to sensitive aquatic habitats.

(c) It shall be unlawful to transport, possess, or release live river herring, also known as alewife or blueback herring, in the waters of the Little Tennessee River in and upstream of Lake Santeetlah and Cedar Cliff Lake, including all the tributaries and impoundments thereof, and on adjacent shorelines, docks, access ramps, and bridge crossings.

*History Note:* Authority G.S. 113-134; 113-274(c)(1c); 113-292;  
*Eff. February 1, 1976;*  
*Amended Eff. September 1, 1984;*  
*Temporary Amendment Eff. July 1, 2001;*  
*Amended Eff. July 18, 2002;*  
*Temporary Amendment Eff. September 1, 2002;*  
*Amended Eff. August 1, 2013; August 1, 2011; June 1, 2009, June 1, 2005; August 1, 2004;*  
*Readopted Eff. August 1, 2019.*

**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), (d), and (m) 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 (m) 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) Lake Sutton in New Hanover County;
- (3) Pungo Lake in Washington and Hyde counties;
- (4) New Lake in Hyde County; and
- (5) Currituck, Roanoke, Croatan, Albemarle sounds, and all their tributaries including Roanoke River downstream of Roanoke Rapids Dam, Chowan River, Meherrin River, Yeopim River, Pasquotank River, Perquimans River, Little River, Big Flatty Creek, North River, Northwest River, Scuppernong River, Alligator River (including the Alligator/Pungo Canal east of the NC Hwy 264/45 bridge, and all other associated tributaries and canals in these river systems.

(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 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.

(m) In Jean Guite Creek and associated canals within the Town of Southern Shores, Dare County, no Black Bass 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;*

*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, 2018; 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;*

*Readopted Eff. August 1, 2019.*

#### **15A NCAC 10C .0306 CRAPPIE**

(a) There is no daily creel limit for Crappie, except for waters identified in Paragraphs (b), (c), (d), (e), and (f) of this Rule. There is no minimum size limit for these fish, except for waters identified in Paragraphs (d), (e), and (f). 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 Hycos;
- (8) Lake Ramseur;
- (9) Cane Creek Lake;

- (10) Lake Hampton (Yadkin County);
- (11) Tar River downstream of Tar River Reservoir Dam and all tributaries;
- (12) Neuse River downstream of Falls Lake Dam and all tributaries;
- (13) Haw River downstream of Jordan Lake Dam and all tributaries;
- (14) Deep River downstream of Lockville Dam and all tributaries;
- (15) Cape Fear River and all tributaries;
- (16) Waccamaw River downstream of Lake Waccamaw Dam and all tributaries;
- (17) Lumber River including Drowning Creek and all tributaries;
- (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.

(f) In John H. Kerr Reservoir, the daily creel limit is 25 fish and the minimum size limit is nine inches.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff. November 1, 2013;*  
*Amended Eff. August 1, 2017; August 1, 2016; August 1, 2015;*  
*Readopted Eff. August 1, 2019.*

#### **15A NCAC 10C .0313 SHAD (AMERICAN AND HICKORY)**

(a) The daily creel limit for American and Hickory Shad in the aggregate is 10 fish, only one of which may be an American Shad, except for waters identified in Paragraphs (b), (c) and (d) of this Rule. There is no minimum size limit for these fish. There is no closed season, except for waters identified in Paragraph (e) of this Rule.

(b) In the inland waters of the Tar-Pamlico River, Pungo River, Pee Dee River, and their tributaries, the daily creel limit for American and Hickory Shad is 10 in the aggregate.

(c) In the inland waters of the Cape Fear River and its tributaries, the daily creel limit for American and Hickory Shad is 10 in the aggregate, only five of which may be American Shad.

(d) In Roanoke Rapids Reservoir, Lake Gaston and John H. Kerr Reservoir, no American Shad may be possessed.

(e) The season for taking American and Hickory Shad with bow nets is March 1 through April 30.

*History Note:* Authority G.S. 113-134; 113-292;  
*Eff. November 1, 2013;*  
*Readopted Eff. August 1, 2019.*

#### **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 20 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 of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110, 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), the 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. June 1, 2018; August 1, 2016; August 1, 2015; August 1, 2014;*

*Readopted Eff. August 1, 2019.*

**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 Paragraph (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:

- (1) Apalachia Reservoir (Cherokee County) the daily creel limit is three trout. There is no minimum size limit, but only one may be greater than 14 inches. There is no closed season.
- (2) Catawba River (Burke County) from Muddy Creek to the City of Morganton water intake dam the daily creel limit is two fish. The minimum size limit is 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, 2018; August 1, 2017; August 1, 2015;*

*Readopted Eff. August 1, 2019.*

**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, from which all fish and animals are removed daily, and that are labeled with the user's Wildlife Resources Commission customer number or name and address;
- (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 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 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 size and creel limits identified in 15A NCAC 10C .0401.

(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 from the following waters:

- (1) Public Mountain Trout Waters (except in impounded waters of power reservoirs and municipally-owned water supply reservoirs);
- (2) Bear Creek in Chatham County;
- (3) Deep River in Chatham, Lee, and Moore counties and downstream of Coleridge Dam in Randolph County;
- (4) Fork Creek in Randolph County; and
- (5) Rocky River in Chatham County.

(i) No person while fishing shall remove the head or tail or otherwise change the appearance of any nongame fish having a size limit identified in 15A NCAC 10C .0401 so as to render it impractical to measure its total original length. No person while fishing shall change the appearance of any nongame fish having a daily creel limit identified in 15A NCAC 10C .0401 so as to obscure its identification or render it impractical to count the number of fish in possession.

*History Note: Authority G.S. 113-134; 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, 2019; August 1, 2018; 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 10C .0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS**

Except in designated public mountain trout waters, and in impounded waters located on the Sandhills Game Land, there is a year-round open season for the licensed taking of nongame fishes by bow and arrow. The use of special fishing devices, including crab pots in impoundments located entirely on game lands, shall be prohibited. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

- (1) Alamance:
  - (a) July 1 to August 31 with seines in Alamance Creek below NC 49 bridge and Haw River;

(b) July 1 to June 30 with gigs in all public waters;

(2) Alexander: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lake Hickory and Lookout Shoals Reservoir;

(3) Alleghany: July 1 to June 30 with gigs in New River, except designated public mountain trout waters;

(4) Anson:

(a) July 1 to June 30 with traps and gigs in all public waters;

(b) March 1 to April 30 with bow nets in Pee Dee River below Blewett Falls Dam;

(c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;

(5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;

(6) Beaufort:

(a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;

(b) March 1 to April 30 with bow nets in all inland public waters;

(7) Bertie:

(a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);

(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;

(8) Bladen:

(a) March 1 to April 30 with bow nets in Black River;

(b) July 1 to March 1 with hand-crank electrofishers (local law) in Cape Fear River between Lock and Dam 1 and 3 and in Black River, except that hand-crank electrofishing is prohibited within 400 yards of Lock and Dam 1, 2, and 3 on Cape Fear River;

(9) Brunswick: March 1 to April 30 with bow nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;

(10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;

(11) Burke:

(a) July 1 to August 31 with seines in all running public waters, except Johns River and designated public mountain trout waters;

- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (12) Cabarrus:
  - (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (13) Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (14) Camden:
  - (a) July 1 to June 30 with traps in all inland public waters;
  - (b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;
- (15) Carteret: March 1 to April 30 with bow nets in all inland public waters except South River and the tributaries of the White Oak River;
- (16) Caswell:
  - (a) July 1 to June 30 with gigs in all public waters;
  - (b) July 1 to August 31 with seines in all running public waters, except Moons Creek;
  - (c) July 1 to June 30 with traps in Hyco Reservoir;
- (17) Catawba:
  - (a) July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam;
  - (b) July 1 to June 30 with traps, spear guns, and gigs in all public waters;
- (18) Chatham:
  - (a) December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law);
  - (b) July 1 to August 31 with seines in the Cape Fear River, and Haw River;
  - (c) July 1 to June 30 with traps in Deep River; and with gigs in all public waters;
- (19) Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (20) Chowan:
  - (a) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;
  - (b) July 1 to June 30 with traps in all inland public waters, except public lakes, ponds, and other impounded waters;
- (21) Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (22) Cleveland:
  - (a) July 1 to August 31 with seines in all running public waters;
  - (b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (23) Columbus:
  - (a) December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries;
  - (b) March 1 to April 30 with bow nets in Livingston Creek;
  - (c) July 1 to March 1 with hand-crank electrofishers (local law) in Waccamaw and Lumber rivers;
- (24) Craven:
  - (a) July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers;
  - (b) March 1 to April 30 with bow nets in all inland public waters, except Pitch Kettle, Grindle, Slocum (downstream of the US 70 bridge), Spring, and Hancock Creeks and their tributaries; and with seines in the Neuse River;
- (25) Currituck:
  - (a) July 1 to June 30 with traps in Tulls Creek and Northwest River;
  - (b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;
- (26) Dare:
  - (a) July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake, and South Lake;
  - (b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;
- (27) Davidson:
  - (a) July 1 to August 31 with seines in all running public waters;
  - (b) July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge;
- (28) Davie:
  - (a) July 1 to June 30 with traps and gigs in all public waters;
  - (b) July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River;

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| <p>(29) Duplin:</p> <p>(a) December 1 to June 5 with seines in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;</p> <p>(b) March 1 to April 30 with bow nets in the main run of the Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;</p> <p>(30) Durham:</p> <p>(a) July 1 to August 31 with seines in Neuse River;</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> <p>(31) Edgecombe: March 1 to April 30 with bow nets in all public waters;</p> <p>(32) Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;</p> <p>(33) Franklin:</p> <p>(a) July 1 to August 31 with seines in Tar River;</p> <p>(b) July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's, and Perry's Ponds, and in the Franklinton City ponds;</p> <p>(34) Gaston:</p> <p>(a) July 1 to August 31 with seines in all running public waters;</p> <p>(b) July 1 to June 30 with gigs, traps, and spear guns in all public waters;</p> <p>(35) Gates: March 1 to April 30 with bow nets in all inland public waters except public lakes, ponds, and other impounded waters;</p> <p>(36) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(37) Granville:</p> <p>(a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;</p> <p>(b) July 1 to August 31 with seines in the Tar River below US 158 bridge;</p> <p>(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;</p> <p>(38) Greene: March 1 to April 30 with bow nets and reels in Contentnea Creek;</p> <p>(39) Guilford:</p> <p>(a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;</p> <p>(b) July 1 to June 30 with gigs in all public waters;</p> <p>(40) Halifax: March 1 to April 30 with bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass</p> | <p>Gut, Quankey Creek, and White's Mill Pond Run;</p> <p>(41) Harnett:</p> <p>(a) January 1 to May 31 with gigs in Cape Fear River and tributaries;</p> <p>(b) March 1 to April 30 with bow nets in Cape Fear River;</p> <p>(42) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;</p> <p>(43) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(44) Hertford:</p> <p>(a) July 1 to June 30 with traps in Wiccacon Creek;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(45) Hyde:</p> <p>(a) July 1 to June 30 with traps in all inland waters;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(46) Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;</p> <p>(47) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(48) Johnston: March 1 to April 30 with bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River and Swift Creek;</p> <p>(49) Jones:</p> <p>(a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;</p> <p>(b) March 1 to April 30 with bow nets in all inland public waters, except the tributaries to the White Oak River;</p> <p>(50) Lee:</p> <p>(a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River;</p> <p>(b) July 1 to August 31 with seines in Cape Fear River;</p> <p>(c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;</p> <p>(51) Lenoir:</p> <p>(a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;</p> <p>(b) March 1 to April 30 with bow nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at</p> |
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| <p>(52) Lincoln:<br/>         (a) July 1 to August 31 with seines in all running public waters;<br/>         (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters;</p> <p>(53) McDowell:<br/>         (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;<br/>         (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;</p> <p>(54) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(55) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(56) Martin: March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(57) Mecklenburg:<br/>         (a) July 1 to August 31 with seines in all running public waters;<br/>         (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters except Freedom Park Pond and Hornet's Nest Ponds;</p> <p>(58) Montgomery:<br/>         (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;<br/>         (b) July 1 to June 30 with traps and gigs in all public waters;</p> <p>(59) Moore:<br/>         (a) July 1 to August 31 with seines in all running public waters except in Deep River;<br/>         (b) July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;</p> <p>(60) Nash:<br/>         (a) July 1 to June 30 with gigs in all public waters, except Tar River;<br/>         (b) March 1 to April 30 with bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;</p> <p>(61) New Hanover: March 1 to April 30 with bow nets in all inland public waters, except Sutton (Catfish) Lake;</p> <p>(62) Northampton:</p> | <p>(a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;<br/>         (b) March 1 to April 30 with bow nets in Oconeechee Creek, Old River Landing Gut, and Vaughans Creek below Watsons Mill;</p> <p>(63) Onslow:<br/>         (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;<br/>         (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;<br/>         (c) March 1 to April 30 with bow nets in the main run of New River and in the main run of the White Oak River;<br/>         (d) March 1 to April 30 with bow nets in Grant's Creek;</p> <p>(64) Orange:<br/>         (a) July 1 to August 31 with seines in Haw River,<br/>         (b) July 1 to June 30 with gigs in all public waters;</p> <p>(65) Pamlico: March 1 to April 30 with bow nets in all inland public waters, except Dawson Creek;</p> <p>(66) Pasquotank:<br/>         (a) July 1 to June 30 with traps in all inland waters;<br/>         (b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(67) Pender:<br/>         (a) December 1 to June 5 with seines in the main run of Northeast Cape Fear River;<br/>         (b) March 1 to April 30 with bow nets in the Northeast Cape Fear River, Long Creek, Moore's Creek approximately one mile upstream to New Moon Fishing Camp, and Black River;<br/>         (c) July 1 to March 1 with hand-crank electrofishers (local law) in Black River;</p> <p>(68) Perquimans:<br/>         (a) July 1 to June 30 with traps in all inland waters;<br/>         (b) March 1 to April 30 with bow nets in all inland public waters, except public lakes, ponds, and other impounded waters;</p> <p>(69) Person:<br/>         (a) July 1 to August 31 with seines in Hycro Creek and Mayo Creek;<br/>         (b) July 1 to June 30 with gigs in all public waters.</p> <p>(70) Pitt:</p> |
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- (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;
- (b) March 1 to April 30 with bow nets in all inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;
- (c) December 1 to June 5 with seines in Tar River;
- (71) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (72) Randolph:
  - (a) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
  - (b) July 1 to June 30 with gigs in all public waters;
- (73) Richmond:
  - (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
  - (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
  - (c) March 1 to April 30 with bow nets in Pee Dee River below Blewett Falls Dam;
- (74) Robeson: December 1 to March 1 with gigs in all inland public waters.
- (75) Rockingham:
  - (a) July 1 to August 31 with seines in Dan River and Haw River;
  - (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;
- (76) Rowan:
  - (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (77) Rutherford:
  - (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
  - (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;
- (78) Sampson:
  - (a) March 1 to April 30 with bow nets in Big Coharie Creek, Black River and Six Runs Creek;
- (b) July 1 to March 1 with hand-crank electrofishers (local law) in Black River downstream of NC 1105 bridge;
- (79) Stanly:
  - (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (80) Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated public mountain trout waters, and traps may not be used in Belews Creek Reservoir;
- (81) Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;
- (82) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (83) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (84) Tyrrell:
  - (a) July 1 to June 30 with traps in Scuppernong River and Alligator Creek;
  - (b) March 1 to April 30 with bow nets in all inland public waters, except Lake Phelps, the drainage canals that connect Lake Phelps and Scuppernong River, public lakes, ponds and other impounded waters;
- (85) Union:
  - (a) July 1 to August 31 with seines in all running public waters,
  - (b) July 1 to June 30 with traps and gigs in all public waters;
- (86) Vance:
  - (a) July 1 to August 31 with seines in the Tar River;
  - (b) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;
  - (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (87) Wake:
  - (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;
  - (b) March 1 to April 30 with bow nets in the Neuse River below Falls Lake Dam, and Swift Creek below Lake Benson Dam;
- (88) Warren:

- (a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; except Duck and Hammes Mill Ponds;
- (b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;
- (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
- (89) Washington: March 1 to April 30 with bow nets in all inland public waters, except Lake Phelps, the drainage canals that connect Lake Phelps and Scuppernong River, public lakes, ponds, and other impoundments.
- (90) Wayne: March 1 to April 30 with bow nets in Little River, Mill Creek and Neuse River.
- (91) Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;
- (92) Wilson:
  - (a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;
  - (b) March 1 to April 30 with bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam; and
- (93) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

*History Note: Authority G.S. 113-134; 113-276; 113-292; Eff. February 1, 1976; Temporary Amendment Eff. December 29, 1988; Temporary Amendment Eff. December 1, 1993; Amended Eff. July 1, 2000; July 1, 1998; July 1, 1996; December 1, 1995; July 1, 1995; July 1, 1994; June 1, 1994; 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, 2019; August 1, 2015; May 1, 2007; June 1, 2005; August 1, 2004.*

#### **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 ½ 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 on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday 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) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter 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.
  - (C) Target Shooting is prohibited.
- (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.
  - (C) Target Shooting is prohibited.
- (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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (C) Horseback riding is prohibited.
  - (D) Target Shooting 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 Day through the third Saturday after Thanksgiving. Deer of either sex may be taken with archery



- equipment 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 Day. Deer with visible antlers may be taken with archery equipment the Monday immediately following the closing of the Deer With Visible Antlers Season, as described in this Part, through January 1. 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 first open Saturday 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) Butner - Falls of Neuse Game Land in Durham, Granville, and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (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 on Sundays only from September 1 through May 14.
- (I) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (J) 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.
- (14) Buxton Woods Game Land in Dare County:
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (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 first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
- (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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (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.
  - (F) Target shooting is prohibited.
- (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 first open Saturday 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) Dan River Game Land in Rockingham County
- (A) Three Days per Week Area
  - (B) Deer hunting is by permit only.
  - (C) Wild turkey hunting is by permit only.
  - (D) Horseback riding is prohibited except on those areas posted for equestrian use. People age 16 or older horseback riding on this game land must possess a Game Lands license.
  - (E) Target shooting is prohibited.
- (26) Dare Game Land in Dare and Hyde counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
  - (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.
- (27) 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.
- (28) 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.
- (29) Elk Knob Game Land in Watauga County
- (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (30) Embro Game Land in Halifax and Warren counties
- (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (C) Horseback riding is prohibited.
  - (D) Target Shooting is prohibited.
- (31) 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.
- (32) Green River Game Land in Henderson, and Polk counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited.
- (33) 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.
- (C) On that portion north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road, hunting and trapping is by permit only.
- (D) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on that portion of the game land that is north of Big Macedonia Road, east of Makatoka Road, south of Little Macedonia Road, and west of Green Swamp Road.
- (34) 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.
- (35) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (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.
- (36) Headwaters State Forest Game Land in Transylvania County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season
- (37) Hill Farm Game Land in Stokes County-hunting and trapping is by permit only.
- (38) 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.
- (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.
- (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.
- (39) Hyco Game land in Person County
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (C) Target shooting is prohibited.
- (40) J. Morgan Futch Game Land in Tyrrell County - Permit Only Area.
- (41) 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.
  - (E) Camping and the presence of campers and tents in designated Hunter Camping Areas is limited to August 31 through the last day of February and March 31 through May 14.
- (42) 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.
- (43) 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.
- (44) 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.
- (45) 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.
- (46) Lee Game Land in Lee County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Target shooting is prohibited.
- (47) 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.
- (48) 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.
- (49) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (C) Horseback riding is prohibited.
- (D) The use of dogs for hunting deer is prohibited.
- (F) Target Shooting is prohibited.
- (50) Mayo Game Land in Person County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (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.
- (51) Mitchell River Game Land in Surry County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.
- (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.
- (52) 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 first open Saturday of the applicable Deer With Visible Antlers Season in

- that portion located in Transylvania County.
- (53) 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.
- (54) 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.
- (C) Camping is allowed any time within 100 yards of the Neuse River on that portion of the game land that lies west of NC-43.
- (55) 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.
- (56) Nicholson Creek Game Land in Hoke County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 through the Friday before Thanksgiving Day.
- (C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the Saturday before Thanksgiving Day through the Wednesday 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 Day.
- (E) Deer of either sex may be taken the first 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.
- (57) 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.
- (58) 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.
- (59) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
- (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.
- (60) Perkins Game Land in Davie County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited from November 1 through January 1.
- (D) Target Shooting is prohibited.
- (61) 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 first open Saturday of the applicable Deer With Visible Antlers Season.
- (C) Horseback riding is prohibited on the Black Bear (McDowell County), Linville River (Burke County), and

- (62) Little Tablerock Tracts (Avery, McDowell, and Mitchell counties).  
Pond Mountain Game Land in Ashe County  
(A) Six Days per Week Area  
(B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.  
(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.
- (63) 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.
- (64) Rendezvous Mountain State Forest Game Land in Wilkes County  
(A) Three Days per Week Area  
(B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.  
(C) Bear hunting is prohibited.
- (65) Rhodes Pond Game Land in Cumberland and Harnett counties  
(A) Hunting is by permit only.  
(B) Swimming is prohibited on the area.
- (66) 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.  
(D) Target Shooting is prohibited.
- (67) Roanoke Island Marshes Game Land in Dare County-Hunting is by permit only.
- (68) 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.
- (69) Rockfish Creek Game Land in Hoke County  
(A) Three Days per Week Area  
(B) Deer of either sex may be taken with archery equipment on open hunting days from the Saturday on or nearest September 10 to the fourth Friday before Thanksgiving Day.  
(C) Deer of either sex may be taken with blackpowder firearms on open hunting days beginning the fourth Saturday before Thanksgiving Day 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 Day through the third Saturday after Thanksgiving Day.  
(E) Deer of either sex may be taken the first 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.
- (70) Rocky Run Game Land in Onslow County - Hunting is by permit only.
- (71) 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.
- (72) 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 of either-sex may be taken with archery equipment on all the open days of the archery season through the fourth Friday before Thanksgiving Day; with blackpowder firearms and archery equipment all the open days of the blackpowder firearms season through the third Wednesday before Thanksgiving Day; and only deer with visible antlers may be taken with all legal weapons from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;  
(ii) dove may be taken all open days from the opening day of



- (iii) the dove season through the third Saturday thereafter; squirrel (gray and fox) may be taken all the open days from second Monday before Thanksgiving Day through the Saturday following Thanksgiving Day;
  - (iv) rabbit may be taken all open days from the second Saturday preceding Thanksgiving Day through the Saturday following Thanksgiving Day;
  - (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 Day through the third Saturday after Thanksgiving Day except on the J. Robert Gordon Field Trial Grounds.
- (D) The archery season is all open days from the Saturday on or nearest to Sept. 10 to the fourth Friday before Thanksgiving Day and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Deer may be taken with archery equipment on all open hunting days during the archery 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 Day through the Wednesday of the second week thereafter and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day 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) Horseback riding on field trial grounds from October 22 through March 31 is prohibited unless participating in authorized field trials.
- (J) Camping and the presence of campers and tents in designated Hunter Camping Areas are limited to September 1 through the last day of February and March 31 through May 14.
- (K) Target shooting is prohibited, except at the John F. Lentz Hunter Education Complex.
- (73) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (C) Horseback riding is prohibited.
  - (D) The use of dogs for hunting deer is prohibited.
  - (E) Target Shooting is prohibited.
- (74) Sandy Mush Game Land in Buncombe and Madison counties.
  - (A) Three Days per Week Area
  - (B) Deer of either sex may be taken the first open Saturday 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.
- (75) Second Creek Game Land in Rowan County-hunting is by permit only.
- (76) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (C) Horseback riding is prohibited.
  - (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.
- (77) (E) Target Shooting is prohibited.  
 South Mountains Game Land in Burke, Cleveland, McDowell, and Rutherford counties
- (A) Six Days per Week Area
- (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the Monday before Thanksgiving Day through the third Saturday after Thanksgiving. Deer of either sex may be taken with archery equipment 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 Day. Deer with visible antlers may be taken with archery equipment the Monday immediately following the closing of the Deer With Visible Antlers Season, as described in this Part, through January 1. 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 first open Saturday 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.
- (78) Stones Creek Game Land in Onslow 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 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.
- (79) 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).
- (80) 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 first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Target shooting is prohibited.
- (81) Tar River Game Land in Edgecombe County
- (A) Hunting is by permit only
- (B) Target Shooting is prohibited
- (82) Texas Plantation Game Land in Tyrrell County
- hunting is by permit only.
- (83) Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area

- (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the first Friday thereafter.
- (C) Horseback riding is prohibited.
- (84) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (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.
- (85) Tillery game Land in Halifax County
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (C) Horseback riding is prohibited.
  - (D) The use of dogs for hunting deer is prohibited.
  - (E) Wild turkey hunting is by permit only.
  - (F) Target Shooting is prohibited.
- (86) Toxaway Game Land in Jackson and Transylvania counties
  - (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first open Saturday 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.
- (87) 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 open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.
  - (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.
- (88) 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.
- (89) 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.
- (90) Voice of America Game Land in Beaufort County
  - (A) Hunting and trapping is by permit only.
  - (B) Target Shooting is prohibited.
- (91) 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.
- (F) Wild turkey hunting is by permit only.
- (G) Target Shooting is prohibited.
- (92) Whitehall Plantation Game Land in Bladen and Pender 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) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting is prohibited on the Long Ridge Tract.
- (93) William H. Silver Game Land in Haywood County
- (A) Six Days per Week Area
  - (B) Deer of either sex may be taken the first open Saturday of the applicable Deer With Visible Antlers Season.

(h) 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.

(i) 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.

(j) 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.

(k) Feral swine may be taken by licensed hunters during the open season for any game animal or game bird 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.

(l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (h) of this Rule.

(m) Permit Hunt Opportunities for Disabled Sportsmen. The Commission may designate special hunts for participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on each permit. If the hunt has a limited weapon choice, the allowed weapons shall be stated on each permit.

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

(o) When waterfowl hunting is authorized 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, 2018; 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;*

*Temporary Amendment Eff. August 1, 2018;*

*Amended Eff. August 1, 2019.*

**15A NCAC 10D .0106 BEAR SANCTUARIES**

(a) It shall be unlawful to take bear on posted bear sanctuaries as set forth in Paragraph (b) of this rule, except when authorized by permit issued by the Commission on sanctuaries specified in Paragraph (c) of this Rule.

(b) The following shall be posted bear sanctuaries:

- Bachelor Bay bear sanctuary – Bertie and Washington counties
- Columbus County bear sanctuary – Brunswick and Columbus counties
- Croatan bear sanctuary – Carteret, Craven, and Jones counties
- Daniel Boone bear sanctuary – Avery, Burke, and Caldwell counties
- Dare bear sanctuary – Dare and Hyde counties,
- Fires Creek bear sanctuary – Clay County
- Flat Top bear sanctuary – Mitchell and Yancey counties
- Green Swamp bear sanctuary – Brunswick County
- Gull Rock bear sanctuary – Hyde County
- Harmon Den bear sanctuary – Haywood County
- Juniper Creek bear sanctuary – Brunswick and Columbus counties
- Mt. Mitchell bear sanctuary – McDowell and Yancey counties
- North River bear sanctuary – Camden and Currituck counties
- Panther town – Bonas Defeat bear sanctuary – Jackson County
- Pisgah Bear Sanctuary – Buncombe, Haywood, Henderson and Transylvania
- Pungo River bear sanctuary – Hyde County
- Rich Mountain bear sanctuary – Madison County
- Sherwood bear sanctuary – Haywood County
- Suggs Mill Pond bear sanctuary – Bladen and Cumberland counties
- Standing Indian bear sanctuary – Macon County
- Thurmond Chatham bear sanctuary – Allegheny and Wilkes counties
- Wayah bear sanctuary – Macon County

(c) It shall be lawful to take bear on the following sanctuaries when authorized by permit issued by the Commission:

- Daniel Boone bear sanctuary – Avery, Burke, and Caldwell counties
- Dare bear sanctuary – Dare and Hyde counties
- Mt. Mitchell bear sanctuary – McDowell and Yancey counties

(d) Feral Swine shall not be taken with the use of dogs on bear sanctuaries.

(e) Dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15 on bear sanctuaries located in and west of the counties and parts of counties described in 15A NCAC 10B .0109.

*History Note: Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.7; 113-305; Eff. August 1, 2019.*

**15A NCAC 10E .0104 USE OF AREAS REGULATED**

(a) No person shall leave any vehicle, boat trailer or other obstruction on any public fishing or boating access area in such a location, position or condition that prevents or impedes the use by other persons of any ramp or other facility constructed for the purpose of launching or landing boats or fishing.

(b) No person shall park a vehicle, boat, boat trailer, or other object at a public fishing or boating access area unless parking in a designated parking zone. Public fishing or boating access areas and facilities remain available for use when designated parking zones are at capacity. When designated parking zones are at capacity, any person may enter and use the areas or facilities, provided other arrangements for parking are made that do not violate this Rule or the regulations of this Subchapter, if applicable. No person shall operate a vehicle at a public fishing or boating access area in a manner that endangers life, limb, or property.

(c) No person shall possess a loaded firearm on any public fishing or boating access area, except that a handgun may be carried by an individual with a valid concealed handgun permit. The individual carrying a handgun must adhere to the requirements set forth in North Carolina G.S. 14-415.11, even if the state issuing

the concealed handgun permit is not North Carolina. The permission to carry a handgun does not apply to access areas on the following game lands:

- (1) Bladen Lakes State Forest
- (2) Buckhorn
- (3) Butner-Falls of Neuse
- (4) Chatham
- (5) DuPont State Forest
- (6) Harris
- (7) Hyco
- (8) Jordan
- (9) Kerr Scott
- (10) Lee
- (11) Mayo
- (12) Pee Dee River north of U.S 74
- (13) Sutton Lake
- (14) Vance
- (15) the portion of R. Wayne Bailey-Caswell that is located north of U.S. 158 and east of N.C. 119

(d) No person, when using any public fishing or boating access area, shall deposit debris or refuse anywhere on the grounds of the area. No person, when using any public fishing or boating access

area, shall do any act 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.

(e) No person shall operate a motorboat in the public waters of North Carolina within 50 yards of a Commission-owned or managed boat launching ramp at greater than "no wake" speed. For the purpose of this Rule, "no wake" speed means idling speed or a slow speed creating no appreciable wake.

(f) Except where facilities are provided, it is unlawful to use any boating access area for purposes other than the launching of boats and parking vehicles and boat trailers. All other uses, including swimming, skiing, camping, building fires, operating concessions or other activities not directly involved with launching of boats are prohibited, except those activities, including fish weigh-ins, 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.

(g) Except where facilities are provided and approved uses are posted, it is unlawful to use any public fishing area for purposes other than fishing. All prohibited uses and activities shall be posted including possession of loaded firearms (except as allowed in Paragraph (b) of this Rule), swimming, launching or mooring jet skis or boats, skiing, building fires, operating concessions, or other activities not directly associated with fishing.

(h) It is unlawful to feed or release animals or birds, domesticated animals and feral animals on public fishing or boating access areas without prior written authorization of the Wildlife Resources Commission. Written authorization will only be granted to persons acting on behalf of the Commission, to persons conducting scientific investigations or surveys, and for release of rehabilitated wildlife. Written authorization will not be granted for any feeding or release that is inimical to the conservation of native wildlife resources. For the purpose of enforcing this Paragraph, "domesticated animals" does not include pets under the control of the owner and raptors or hunting dogs where otherwise permitted for hunting or training purposes.

(i) The use of gasoline powered motors on Ethridge Pond Public Fishing Area and Newbold Pond Public Fishing Area in Edgecombe County is prohibited.

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

*Eff. February 1, 1976;*

*Amended Eff. August 1, 2019; August 1, 2012; August 1, 2010; May 1, 2009; July 1, 1995; February 1, 1994; September 1, 1992; July 1, 1991.*

#### **15A NCAC 10F .0303 BEAUFORT COUNTY**

(a) Regulated Areas. This Rule shall apply to the following waters in Beaufort County:

- (1) the portion of Broad Creek south of a line from a point on the east shore at 35.49472 N, 76.95693 W to a point on the west shore at 35.49476 N, 76.96028 W and north of a line from a point on the east shore at 35.48485 N, 76.95178 W to a point on the west shore at 35.48495 N, 76.95619 W;

- (2) the portion of Blounts Creek south of a line 100 yards north of the Blounts Creek Boating Access Area, from a point on the east shore at 35.40846 N, 76.96091 W to a point on the west shore at 35.40834 N, 76.96355 W, and north of a line 100 yards south of Cotton Patch Landing, from a point on the east shore at 35.40211 N, 76.96573 W to a point on the west shore at 35.40231 N, 76.96702 W;
- (3) the waters of Battalina Creek, within the territorial limits of the Town of Belhaven;
- (4) the navigable portion of Nevil Creek extending upstream from its mouth at the Pamlico River;
- (5) the portion of Blounts Creek north of a line 35 yards south-southeast of the Mouth of the Creek Bridge from a point on the east shore at 35.43333 N, 76.96985 W to a point on the west shore at 35.43267 N, 76.97196 W and south of a line 350 yards north-northeast of the Mouth of the Creek Bridge from a point on the east shore at 35.43553 N, 76.96962 W to a point on the west shore at 35.43679 N, 76.97011 W;
- (6) the portion of Tranters Creek east of a line from a point on the north shore at 35.56961 N, 77.09159 W to a point on the south shore at 35.56888 N, 77.09118 W and north of a line from a point on the east shore at 35.56714 N, 77.08941 W to a point on the west shore at 35.56689 N, 77.09029 W; and
- (7) the waters of Little Creek beginning at a line near its mouth from a point on the east shore at 35.41917 N, 76.97102 W to a point on the west shore at 35.41900 N, 76.96940 W; and
- (8) the canals at the eastern end of the peninsula between Chocowinity Bay and the Pamlico River at Fork Point and Whichard Beach, beginning at the canal entrance off of Chocowinity Bay at a point a 35.50296 N, 77.03043 W and beginning at the canal entrance off of the Pamlico River at a point at 35.50340 N, 77.02364 W.

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

(c) Placement of Markers. The Board of Commissioners of Beaufort County and the City Council of the City of Washington shall be the designated agencies for placement of the markers implementing this Rule, subject to the approval of the United States Coast Guard and United States Army Corps of Engineers.

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

*Eff. February 1, 1976;*

*Amended Eff. September 1, 2013; September 1, 2010; June 1, 1998; April 1, 1997; June 1, 1989; March 1, 1987; April 1, 1986; March 4, 1979;*

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;*

*Amended Eff. May 1, 2019; October 1, 2018; November 1, 2017.*

**15A NCAC 10F .0333 MECKLENBURG AND GASTON COUNTIES**

(a) Regulated Areas. This Rule shall apply to the following waters of Lake Wylie in Mecklenburg and Gaston Counties:

- (1) McDowell Park. The waters of the coves adjoining McDowell Park and the Southwest Nature Preserve in Mecklenburg County shore to shore, east of the mouth of the cove at a line from a point on the south shore at 35.10272 N, 81.03026 W to a point on the north shore at 35.10556 N, 80.02964 W;
- (2) Gaston County Wildlife Club Cove. The waters of the cove west of the Gaston County Wildlife Club on South Point Road in Belmont, north of a line at the mouth of the cove from a point on the east shore at 35.15628 N, 81.01427 W to a point on the west shore at 35.15628 N, 81.01615 W;
- (3) Buster Boyd Bridge. The waters from a point 250 feet east of the Buster Boyd Bridge on N.C. Highway 49 in Mecklenburg County at 35.10293 N, 81.03932 W, to a point 150 feet west of the Buster Boyd Bridge at 35.10242 N, 81.04089 W;
- (4) N.C. Highway 27 bridge. The waters shore to shore, from a point 50 yards north of the N.C. Highway 27 bridge in Mecklenburg and Gaston counties at 35.29849 N, 81.00346 W to a point 190 yards south of the N.C. Highway 27 bridge at 35.29635 N, 81.00424 W;
- (5) Brown's Cove. The area beginning at the mouth of Brown's Cove in Mecklenburg County shore to shore, at a point at 35.16453 N, 81.00474 W, west to a point at 35.16480 N, 81.00309 W;
- (6) Paradise Point Cove. The waters of Paradise Point Cove in Gaston County between Paradise Circle and Lake Front Drive, west of a line from a point on the south shore at 35.18853 N, 81.04036 W to a point on the north shore at 35.18991 N, 81.04136 W;
- (7) Withers Cove. The waters from a point 50 feet southeast of the Withers Bridge on SR 1116, otherwise known as Shopton Road W. in Mecklenburg County at 35.14576 N, 81.00187 W, to a point 50 feet northwest of the bridge at 35.14599 N, 81.00222 W;
- (8) Sadler Island. The waters shore to shore beginning at a line from a point on the west shore of Lake Wylie in Gaston County at 35.27481 N, 81.0138 W east to a point on the east shore of the Lake in Mecklenburg County at 35.27423 N, 81.01111 W, extending south on the Lake west of Sadler Island to a line from a point on the west shore of the Lake in Gaston County at 35.27079 N, 81.01525 W, east to a point on the west side of Sadler Island in Mecklenburg County at 35.27051 N, 81.01396 W, and the waters shore to shore east of Sadler Island in Mecklenburg County from a point at

35.27441 N, 81.01185 W, south-southwest to a line from a point on the south shore of Sadler Island at 35.26635 N, 81.01432 W, south to a point on the Lake shore at 35.26494 N, 81.01368 W;

- (9) Other bridges. The areas within 50 feet of any bridge in North Carolina that crosses the waters of Lake Wylie that is not otherwise specifically mentioned in this Paragraph; and
- (10) Yachtsman on Lake Wylie Community. The waters within 50 yards of the community piers near the terminus of Waterside Drive in Mecklenburg County, and northward to include the waters east of the island that is west of Point Lookout Road, ending at a line from a point on the northern end of the island at 35.12226 N, 81.03306 W, east to a point on the shore at 35.12253 N, 81.03190 W.

(b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any public boat-launching ramp, dock, pier, marina, boat storage structure, or boat service area.

(c) Speed Limit Near Marked Swimming or Mooring Areas. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked mooring area or marked swimming area.

(d) Placement and Maintenance of Markers. The Lake Wylie Marine Commission shall be the designated agency for placement and maintenance of markers implementing this Rule.

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

*Eff. July 1, 1980;*

*Amended Eff. July 1, 1994; June 1, 1985; June 1, 1984; March 1, 1983;*

*Temporary Amendment Eff. January 1, 1998;*

*Amended Eff. July 1, 1998;*

*Temporary Amendment Eff. February 4, 2000;*

*Amended Eff. April 1, 2009; June 1, 2004; July 1, 2000;*

*Temporary Amendment Eff. May 1, 2015;*

*Amended Eff. October 1, 2015;*

*Readopted Eff. October 1, 2018;*

*Amended Eff. May 1, 2019.*

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**TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS**

**CHAPTER 48 – BOARD OF PHYSICAL THERAPY EXAMINERS**

**21 NCAC 48F .0102 FEES**

(a) The following fees are charged by the Board:

- (1) application for physical therapist licensure, one hundred fifty dollars (\$150.00);
- (2) application for physical therapist assistant licensure, one hundred fifty dollars (\$150.00);
- (3) renewal for all persons, one hundred twenty dollars (\$120.00);
- (4) revival of license lapsed less than five years, thirty dollars (\$30.00) plus renewal fee;

- (5) transfer of licensure information fee, including either the examination scores or licensure verification or both, thirty dollars (\$30.00);
- (6) retake examination, sixty dollars (\$60.00);
- (7) certificate replacement or duplicate, thirty dollars (\$30.00);
- (8) licensee list or labels or any portion thereof for physical therapists, sixty dollars (\$60.00);
- (9) licensee list or labels or any portion thereof for physical therapist assistants, sixty dollars (\$60.00); and
- (10) processing fee for returned checks, maximum allowed by G.S. 25-3-506.

(b) The application fee is not refundable.

(c) Payment of application fees listed in Subparagraphs (a)(1) and (2) of this Rule may be made by certified check, cash, credit card, or debit card.

*History Note: Authority G.S. 90-270.92; 90-270.95; 90-270.100;*

*Eff. February 1, 1976;*

*Readopted Eff. September 30, 1977;*

*Amended Eff. August 1, 1998; October 1, 1995; October 1, 1994; November 1, 1991; August 1, 1991;*

*Temporary Amendment Eff. October 1, 1999;*

*Amended Eff. August 1, 2017; July 1, 2013; December 1, 2006; August 1, 2002; August 1, 2000.*

*Readopted Eff. May 1, 2019.*

## **21 NCAC 48F .0103 INVESTIGATIONS**

Any complaint alleging violations of the North Carolina Physical Therapy Practice Act must be made in writing, signed by the person submitting the complaint, and include the complainant's address and telephone number. Complaints must be sent to the Executive Director.

*History Note: Authority G.S. 90-270.92; 90-270.102; 90-270.103;*

*Eff. February 1, 1976;*

*Readopted Eff. September 30, 1977;*

*Amended Eff. December 1, 2006; February 1, 1996; May 1, 1988; October 28, 1979;*

*Readopted Eff. May 1, 2019.*

## **21 NCAC 48G .0504 COMPLAINTS AND INVESTIGATIONS**

(a) In order to file a complaint with the Board, the following information shall be submitted to the Board in writing:

- (1) the name and address of person alleged to have violated the Physical Therapy Practice Act;
- (2) a statement of conduct that is the basis of the complaint; and
- (3) the name, address, and telephone number of complainant.

(b) Upon receipt of a written complaint alleging misconduct that may subject a licensee to disciplinary action, or upon the receipt of the information that a violation of the Physical Therapy Practice Act may have occurred, the Board shall investigate the

matter to determine whether probable cause exists to institute disciplinary proceedings.

(c) The Executive Director of the Board and a member appointed by the Chair shall serve as an investigative committee. This investigative committee may be assisted by:

- (1) the Board's attorney;
- (2) an investigator;
- (3) a former member of the Board; or
- (4) a consultant retained by the investigative committee who possesses expertise that will assist the investigative committee in its investigation.

(d) The investigative committee shall investigate the complaint or information set forth in Paragraphs (a) and (b) of this Rule. In conducting its investigation, the Board Chair (or Executive Director, if designated by the Chair) may issue subpoenas in the investigative committee's name for the production of documents pursuant to the provisions of Rule .0512 of this Section. The investigative committee shall determine whether there is probable cause to believe that the licensee has violated any statute or Board rule that justifies a disciplinary hearing. If the investigative committee determines probable cause does not exist, the complaint shall be dismissed, and the complainant shall be notified of the investigative committee's action and its reasons. If the investigative committee determines that probable cause exists, the investigative committee shall offer to confer with the licensee in an attempt to settle the matter through informal means. If the investigative committee and the licensee reach an agreement on the disposition of the matter under investigation, the investigative committee shall cause to be drafted a proposed settlement agreement that shall include findings of fact, conclusions of law, and a consent order for presentation to and consideration by the Board. The settlement agreement shall be presented to and approved by the licensee before it is presented to the Board for consideration and approval.

(e) Prior to a decision rendered by the Board, any materials generated or obtained by the Board in conducting an investigation shall be considered confidential investigation records not subject to the Public Records Act, G.S. 132. However, copies of the materials may be provided to a licensee subject to disciplinary action, or to the licensee's attorney, so long as identifying information concerning the treatment or delivery of professional services to a patient who has not consented to its public disclosure shall be redacted.

(f) If the investigative committee and the licensee are not able to settle the matter under investigation by informal means, the licensee may request a contested case hearing pursuant to Rule .0502 of this Section or the Board shall give notice of a disciplinary or contested case hearing.

(g) If probable cause is found, but it is determined that license suspension or revocation is not warranted, the investigative committee shall recommend that the Board place the licensee on probation, or issue a warning to the licensee. In making this determination, the investigative committee shall consider such factors as harm to the public; nature of the conduct; and prior record of discipline. The investigative committee shall mail a copy of its recommendation to the licensee.

(h) Within 20 days after receipt of the recommendation, the licensee may refuse the probation or warning and request a



contested case hearing pursuant to this Rule. The refusal and request shall be filed with the Board. The legal counsel for the Board shall thereafter prepare, file, and serve a Notice of Hearing.

(i) In the alternative, within 20 days after receipt of the recommendation, the licensee may request an informal meeting with the Board to discuss the basis of the investigative committee's recommendation and present reasons why the Board should not follow the investigative committee's recommendation. There shall be no sworn testimony presented, nor shall there be a formal record of the proceedings.

(j) If the licensee does not request a contested case hearing or an informal meeting with the Board, the Board shall still determine whether to accept the investigative committee's recommendation.

(k) Participation by a current Board member in the investigation of a complaint shall disqualify that Board member from participating in the decision making process of a contested case hearing.

(l) Subsequent to the issuance of a notice of hearing, the attorney prosecuting the contested case for the Board may not

communicate, directly or indirectly, in connection with any issue of fact or question of law, with any party, including the members of the Board assigned to make a decision or to make findings of fact and conclusions of law in the contested case, except on notice and opportunity for all parties to participate. However, the attorney prosecuting the matter for the Board may continue to communicate concerning the contested case with the members of the investigative committee who investigated the matter, with persons not parties to the contested case who may be called as witnesses including the person who filed the complaint, and with the Board members about other matters.

*History Note:* Authority G.S. 90-270.92; 150B-38; 150B-39; 150B-40;

*Eff. October 1, 1995;*

*Amended Eff. February 1, 2015; July 1, 2013; August 1, 2002; August 1, 1998; February 1, 1996;*

*Readopted Eff. May 1, 2019.*

*This Section contains information for the meeting of the Rules Review Commission June 20, 2019 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-431-3000. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2<sup>nd</sup> business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.*

**RULES REVIEW COMMISSION MEMBERS****Appointed by Senate**

Jeff Hyde (1<sup>st</sup> Vice Chair)  
Robert A. Bryan, Jr.  
Margaret Currin  
Jeffrey A. Poley  
Brian P. LiVecchi

**Appointed by House**

Garth Dunklin (Chair)  
Andrew P. Atkins  
Anna Baird Choi  
Paul Powell  
Jeanette Doran (2<sup>nd</sup> Vice Chair)

**COMMISSION COUNSEL**

Amber Cronk May (919) 431-3074  
Amanda Reeder (919) 431-3079  
Ashley Snyder (919) 431-3081

**RULES REVIEW COMMISSION MEETING DATES**

June 20, 2019                      July 18, 2019  
August 15, 2019                  September 19, 2019

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**AGENDA****RULES REVIEW COMMISSION****THURSDAY, JUNE 20, 2019 9:00 A.M.****1711 New Hope Church Rd., Raleigh, NC 27609**

- I. Ethics reminder by the chair as set out in G.S. 163A-159(e)
- II. Approval of the minutes from the last meeting
- III. Follow-up matters
  - A. Board of Elections - 08 NCAC 10B .0101, .0102, .0103, .0104, .0105, .0106, .0107 (May)
  - B. DHHS/ Division of Health Benefits - 10A NCAC 23E .0105, .0202; 23G .0203, .0304; 23H .0109 (Reeder)
  - C. Commission for the Blind - 10A NCAC 63C .0203, .0204, .0403, .0601 (Reeder)
  - D. Environmental Management Commission - 15A NCAC 02B .0402, .0403, .0404, .0406, .0407, .0408, .0501, .0502, .0503, .0504, .0505, .0506, .0508, .0511; 02H .0101, .0102, .0103, .0105, .0106, .0107, .0108, .0109, .0111, .0112, .0113, .0114, .0115, .0116, .0117, .0118, .0120, .0121, .0124, .0125, .0127, .0138, .0139, .0140, .0141, .0142, .0143, .0401, .0402, .0403, .0404, .0405, .0406, .0407, .1201, .1202, .1203, .1204, .1205, .1206 (May)
  - E. Environmental Management Commission - 15A NCAC 02H .0901, .0902, .0903, .0904, .0905, .0906, .0907, .0908, .0909, .0910, .0912, .0913, .0914, .0915, .0916, .0917, .0918, .0919, .0920, .0921, .0922 (Reeder)
  - F. Marriage and Family Therapy Licensure Board - 21 NCAC 31 .0201, .0202, .0203, .0301, .0401, .0403, .0404, .0501, .0502, .0503, .0504, .0505, .0506, .0609, .0701, .0801, .0802, .1001, .1002 (Reeder)
- IV. Review of Log of Filings (Permanent Rules) for rules filed between April 23, 2019 through May 20, 2019
  - Board of Agriculture (Reeder)
  - DHHS - Division of Aging and Adult Services
  - Social Services Commission
  - Department of Health and Human Services (May)
  - Social Services Commission
  - Code Officials Qualification Board (Reeder)
  - Department of Justice (Reeder)
  - Environmental Management Commission 02C (Reeder)
  - Environmental Management Commission 02H (Reeder)
  - Environmental Management Commission 02T (Reeder)
  - Coastal Resources Commission (May)

- Commission for Public Health (May)
- Department of Transportation (May)
- Medical Board (Reeder)
- Onsite Wastewater Contractors and Inspectors Certification Board (May)
- State Human Resources Commission (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. 10A NCAC 14E – DHHS-Division of Health Service Regulation
  2. 10A NCAC 28F – Commission for Mental Health/DD/SAS - Section .0100; Rules .0201-.0209, .0212; Sections .0300, .0400, .0700
  3. 10A NCAC 28F – Commission for Mental Health/DD/SAS/Division of Mental Health/DD/SAS - Rules .0210-.0211, .0213; Sections .0500, .0600, .0800, .0900
  4. 10A NCAC 28G – Commission for Mental Health/DD/SAS
  5. 10A NCAC 28H – Commission for Mental Health/DD/SAS
  6. 10A NCAC 28I – DHHS - Division of Mental Health/DD/SAS - Sections .0100, .0400
  7. 10A NCAC 28I – Commission for Mental Health/DD/SAS/Division of Mental Health/DD/SAS – Section .0200
  8. 10A NCAC 28I – Commission for Mental Health/DD/SAS – Section .0300
  9. 10A NCAC 29C – DHHS - Division of Mental Health/DD/SAS
  10. 10A NCAC 29D – DHHS-Division for Mental Health/DD/SAS – Sections .0500, .0800
  11. 10A NCAC 29D – Commission for Mental Health/DD/SAS – Sections .0600, .0700

VII. Commission Business

G. Periodic Review and Expiration of Existing Rules Readoption Schedule

- Next meeting: Thursday, July 18, 2019

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**Commission Review  
Log of Permanent Rule Filings  
April 23, 2019 through May 20, 2019**

**AGRICULTURE, BOARD OF**

The rules in Chapter 38 are enforced by the standards division and include purpose and definitions (.0100); approval of weighing and measuring devices (.0200); package and labeling requirements (.0300); method of sale and commodities (.0400); leaf tobacco (.0500); sale of petroleum products (.0600); standards for storage, handling and installation of LP gas (.0700); and liquid fertilizers (.0800).

|                              |                  |
|------------------------------|------------------|
| <u>Adoption by Reference</u> | 02 NCAC 38 .0401 |
| <u>Amend*</u>                |                  |

The rules in Subchapter 52B cover animal diseases, treatment, and protection including quarantine (.0100), admission of livestock to North Carolina (.0200), brucellosis regulations (.0300), equine infectious anemia (.0400), poultry diseases (.0500), poultry hatcheries (.0600); and scrapie disease (.0700).

|   |                   |
|---|-------------------|
| <u>Importation Requirements: Cattle</u> | 02 NCAC 52B .0204 |
| <u>Readopt with Changes*</u>            |                   |

|  |                   |
|--|-------------------|
| <u>Importation Requirements: Cattle Fever Tick and Scabies</u> | 02 NCAC 52B .0205 |
| <u>Repeal*</u>   |                   |

|  |                   |
|--|-------------------|
| <u>Importation Requirements: Swine</u> | 02 NCAC 52B .0207 |
| <u>Readopt with Changes*</u>           |                   |

|  |                   |
|--|-------------------|
| <u>Importation Requirements: Cervids</u> | 02 NCAC 52B .0213 |
| <u>Readopt without Changes*</u>          |                   |

The rules in Subchapter 52E concern marketing of livestock including definitions and general rules (.0100); public livestock market regulations (.0200); livestock market regulations (.0300); and livestock branding (.0400).

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Style and Location of Brand</u><br>Readopt without Changes*   | 02  | NCAC | 52E | .0402 |
| The rules in Subchapter 52G concern biologics including definitions (.0100); licenses (.0200); inspection and record keeping (.0300); and registration of biologics (.0400).   |     |      |     |       |
| <u>Protection of Confidential Information</u><br>Readopt without Changes*  | 02  | NCAC | 52G | .0303 |
| <b>HHS - AGING AND ADULT SERVICES, DIVISION OF</b>   |     |      |     |       |
| The rules in Chapter 6 concern aging program operations.   |     |      |     |       |
| The rules in Subchapter 6Q concern the scope (.0100) and requirements (.0200) for adult day care.  |     |      |     |       |
| <u>Adult Day Care Standards</u><br>Readopt without Changes*  | 10A | NCAC | 06Q | .0101 |
| <u>Maximum Reimbursement Rates</u><br>Readopt with Changes*  | 10A | NCAC | 06Q | .0201 |
| <b>SOCIAL SERVICES COMMISSION</b>  |     |      |     |       |
| The rules in Subchapter 6R concern adult day care standards for certification and include introduction (.0100); definition of terms (.0200); administration (.0300); the facility (.0400); program operation (.0500); certification procedure (.0600); construction requirements for day care home (.0700); certification information (.0800); and special care for persons with alzheimer's disease or other dementias, mental health disabilities or other special needs diseases or conditions in adult day care centers (.0900). |     |      |     |       |
| <u>Certification Requirement</u><br>Readopt without Changes*   | 10A | NCAC | 06R | .0101 |
| <u>Corrective Action</u><br>Readopt without Changes*   | 10A | NCAC | 06R | .0102 |
| <u>Definitions</u><br>Readopt with Changes*  | 10A | NCAC | 06R | .0201 |
| <u>Program Goals</u><br>Readopt without Changes*   | 10A | NCAC | 06R | .0302 |
| <u>Insurance</u><br>Readopt without Changes*   | 10A | NCAC | 06R | .0304 |
| <u>Personnel: Centers: Home with Operator and Staff</u><br>Readopt with Changes*   | 10A | NCAC | 06R | .0305 |
| <u>General Requirements</u><br>Readopt with Changes*   | 10A | NCAC | 06R | .0401 |
| <u>Equipment and Furnishings</u><br>Readopt with Changes*  | 10A | NCAC | 06R | .0403 |
| <u>Planning Program Activities</u><br>Readopt without Changes*   | 10A | NCAC | 06R | .0501 |
| <u>Nutrition</u><br>Readopt without Changes*   | 10A | NCAC | 06R | .0502 |
| <u>Transportation</u><br>Readopt with Changes*   | 10A | NCAC | 06R | .0503 |
| <u>Emergencies and First Aid</u><br>Readopt with Changes*  | 10A | NCAC | 06R | .0504 |
| <u>Hours and Days of Operation</u><br>Readopt with Changes*  | 10A | NCAC | 06R | .0506 |

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Records</u>                             | 10A | NCAC | 06R | .0508 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Program Evaluation</u>                  | 10A | NCAC | 06R | .0509 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Procedure</u>                           | 10A | NCAC | 06R | .0601 |
| Readopt with Changes*                      |     |      |     |       |
| <u>The Certificate</u>                     | 10A | NCAC | 06R | .0801 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Provisional Certificate</u>             | 10A | NCAC | 06R | .0802 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Denial or Revocation of Certificate</u> | 10A | NCAC | 06R | .0804 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Procedure for Appeal</u>                | 10A | NCAC | 06R | .0806 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Policies and Procedures</u>             | 10A | NCAC | 06R | .0902 |
| Readopt without Changes*                   |     |      |     |       |
| <u>Enrollment - Special Care Services</u>  | 10A | NCAC | 06R | .0904 |
| Readopt with Changes*                      |     |      |     |       |

The rules in Subchapter 6S concern adult day health standards for certification and include introduction and definitions (.0100); administration (.0200); facility requirements for centers and homes (.0300); program operation (.0400); certification information (.0500); and special care for persons with alzheimer's disease or related disorders, mental health disabilities, or other special needs diseases or conditions in adult day care centers (.0600)

|   |     |      |     |       |
|---|-----|------|-----|-------|
| <u>Introductory Statement</u>                               | 10A | NCAC | 06S | .0101 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Definitions</u>  | 10A | NCAC | 06S | .0102 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Staffing Pattern</u>                                     | 10A | NCAC | 06S | .0203 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Staff Requirements</u>                                   | 10A | NCAC | 06S | .0204 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Requirements</u>   | 10A | NCAC | 06S | .0301 |
| Readopt with Changes*                                       |     |      |     |       |
| <u>Construction Requirements for Day Health Homes</u>       | 10A | NCAC | 06S | .0302 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Additional Enrollment and Participation Requirements</u> | 10A | NCAC | 06S | .0402 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Health and Personal Care Services</u>                    | 10A | NCAC | 06S | .0403 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Transportation</u>                                       | 10A | NCAC | 06S | .0404 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Emergencies and First Aid</u>                            | 10A | NCAC | 06S | .0405 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Procedure</u>  | 10A | NCAC | 06S | .0501 |
| Readopt without Changes*                                    |     |      |     |       |
| <u>Procedure for Appeal</u>                                 | 10A | NCAC | 06S | .0508 |
| Readopt without Changes*                                    |     |      |     |       |

The rules in Subchapter 6T are state adult day care fund rules.

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Nature and Purpose of State Adult Day Care Fund</u> | 10A | NCAC | 06T | .0201 |
| Readopt without Changes*                               |     |      |     |       |

## HEALTH AND HUMAN SERVICES, DEPARTMENT OF

The rules in Subchapter 14A concern rulemaking (.0100); contested cases (.0200); and hearings, transfers and discharges (.0300).

|                              |     |      |     |       |
|------------------------------|-----|------|-----|-------|
| <u>Petitions</u>             | 10A | NCAC | 14A | .0101 |
| Readopt with Changes*        |     |      |     |       |
| <u>Rulemaking Procedures</u> | 10A | NCAC | 14A | .0102 |
| Readopt/Repeal*              |     |      |     |       |
| <u>Declaratory Rulings</u>   | 10A | NCAC | 14A | .0103 |
| Readopt with Changes*        |     |      |     |       |

## SOCIAL SERVICES COMMISSION

The rules in Chapter 67 concern social services procedures.

The rules in Subchapter 67A concern general administration including administration (.0100); hearing policy (.0200); and regional social services departments (.0300).

|   |     |      |     |       |
|---|-----|------|-----|-------|
| <u>Contents</u>   | 10A | NCAC | 67A | .0101 |
| Readopt without Changes*  |     |      |     |       |
| <u>Standards for Office Space and Facilities</u>                    | 10A | NCAC | 67A | .0103 |
| Readopt without Changes*  |     |      |     |       |
| <u>Administration and Agency Compliance</u>                         | 10A | NCAC | 67A | .0105 |
| Readopt without Changes*  |     |      |     |       |
| <u>Civil Rights</u>   | 10A | NCAC | 67A | .0106 |
| Readopt without Changes*  |     |      |     |       |
| <u>Forms</u>  | 10A | NCAC | 67A | .0107 |
| Readopt without Changes*  |     |      |     |       |
| <u>Advisory to Counties Regarding Petition of Garnishment</u>       | 10A | NCAC | 67A | .0108 |
| Readopt without Changes*  |     |      |     |       |
| <u>General</u>  | 10A | NCAC | 67A | .0201 |
| Readopt without Changes*  |     |      |     |       |
| <u>Exceptions for Notification</u>                                  | 10A | NCAC | 67A | .0202 |
| Readopt without Changes*  |     |      |     |       |
| <u>Good Cause for Delayed Hearings</u>                              | 10A | NCAC | 67A | .0203 |
| Readopt without Changes*  |     |      |     |       |
| <u>Attendance at the Hearing</u>                                    | 10A | NCAC | 67A | .0204 |
| Readopt without Changes*  |     |      |     |       |
| <u>Appeal of Decision</u>   | 10A | NCAC | 67A | .0205 |
| Readopt without Changes*  |     |      |     |       |
| <u>Good Cause for Not Requesting Hearing and Required Time F...</u> | 10A | NCAC | 67A | .0206 |
| Readopt without Changes*  |     |      |     |       |

The rules in Chapter 68 concern rulemaking for the Social Services Commission (.0100); and the Social Services Division Director (.0200).

|                          |     |      |    |       |
|--------------------------|-----|------|----|-------|
| <u>Petitions</u>         | 10A | NCAC | 68 | .0101 |
| Readopt without Changes* |     |      |    |       |
| <u>Notice</u>            | 10A | NCAC | 68 | .0102 |
| Readopt without Changes* |     |      |    |       |
| <u>Hearing Officer</u>   | 10A | NCAC | 68 | .0103 |
| Readopt without Changes* |     |      |    |       |

|  |     |      |    |       |
|--|-----|------|----|-------|
| <u>Hearings</u>  | 10A | NCAC | 68 | .0104 |
| Readopt without Changes*   |     |      |    |       |
| <u>Statement of Reasons for and Against Rulemaking Decision</u>  | 10A | NCAC | 68 | .0105 |
| Readopt without Changes*   |     |      |    |       |
| <u>Record of Rulemaking Proceedings</u>                          | 10A | NCAC | 68 | .0106 |
| Readopt without Changes*   |     |      |    |       |
| <u>Fees</u>  | 10A | NCAC | 68 | .0107 |
| Readopt without Changes*   |     |      |    |       |
| <u>Declaratory Rulings</u>                                       | 10A | NCAC | 68 | .0108 |
| Readopt without Changes*   |     |      |    |       |
| <u>Notice</u>  | 10A | NCAC | 68 | .0202 |
| Readopt without Changes*   |     |      |    |       |
| <u>Hearing Officer</u>   | 10A | NCAC | 68 | .0203 |
| Readopt without Changes*   |     |      |    |       |
| <u>Hearings</u>  | 10A | NCAC | 68 | .0204 |
| Readopt without Changes*   |     |      |    |       |
| <u>Justification of Rulemaking Decision</u>                      | 10A | NCAC | 68 | .0205 |
| Readopt without Changes*   |     |      |    |       |
| <u>Record of Rulemaking Proceedings</u>                          | 10A | NCAC | 68 | .0206 |
| Readopt without Changes*   |     |      |    |       |
| <u>Declaratory Rulings</u>                                       | 10A | NCAC | 68 | .0208 |
| Readopt without Changes*   |     |      |    |       |
| <u>Employment of Relatives of County Board Members</u>           | 10A | NCAC | 68 | .0301 |
| Readopt without Changes*   |     |      |    |       |
| <u>Selection of County Board Members by Social Services Comm</u> | 10A | NCAC | 68 | .0302 |
| Readopt without Changes*   |     |      |    |       |
| <u>Delegation of Authority by County Boards</u>                  | 10A | NCAC | 68 | .0303 |
| Readopt without Changes*   |     |      |    |       |

The rules in Chapter 69 concern confidentiality and access to client records including general provisions (.0100); safeguarding client information (.0200); client access to records (.0300); release of client information (.0400); disclosure of client information without client consent (.0500); and service providers (.0600).

|   |     |      |    |       |
|---|-----|------|----|-------|
| <u>Definitions</u>  | 10A | NCAC | 69 | .0101 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Information from Other Agencies</u>                        | 10A | NCAC | 69 | .0102 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Conflict of Laws</u>                                       | 10A | NCAC | 69 | .0201 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Ownership of Records</u>                                   | 10A | NCAC | 69 | .0202 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Security of Records</u>                                    | 10A | NCAC | 69 | .0203 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Assurance of Confidentiality</u>                           | 10A | NCAC | 69 | .0204 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Liability of Persons with Access to Client Information</u> | 10A | NCAC | 69 | .0205 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Right of Access</u>  | 10A | NCAC | 69 | .0301 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Prompt Response to Request</u>                             | 10A | NCAC | 69 | .0302 |
| Readopt without Changes*                                      |     |      |    |       |
| <u>Withholding Information from the Client</u>                | 10A | NCAC | 69 | .0303 |
| Readopt without Changes*                                      |     |      |    |       |

|  |     |      |    |       |
|--|-----|------|----|-------|
| <u>Procedures for Review of Records</u>                            | 10A | NCAC | 69 | .0304 |
| Readopt without Changes*   |     |      |    |       |
| <u>Contested Information</u>                                       | 10A | NCAC | 69 | .0305 |
| Readopt without Changes*   |     |      |    |       |
| <u>Review of Record by Personal Representatives</u>                | 10A | NCAC | 69 | .0306 |
| Readopt without Changes*   |     |      |    |       |
| <u>Procedures for Obtaining Consent for Release of Information</u> | 10A | NCAC | 69 | .0401 |
| Readopt without Changes*   |     |      |    |       |
| <u>Consent for Release of Information</u>                          | 10A | NCAC | 69 | .0402 |
| Readopt without Changes*   |     |      |    |       |
| <u>Persons Who May Consent to the Release of Information</u>       | 10A | NCAC | 69 | .0403 |
| Readopt without Changes*   |     |      |    |       |
| <u>Informed Consent</u>  | 10A | NCAC | 69 | .0404 |
| Readopt without Changes*   |     |      |    |       |
| <u>Persons Designated to Release Client Information</u>            | 10A | NCAC | 69 | .0405 |
| Readopt without Changes*   |     |      |    |       |
| <u>Documentation of Release</u>                                    | 10A | NCAC | 69 | .0406 |
| Readopt without Changes*   |     |      |    |       |
| <u>Disclosure within the Agency</u>                                | 10A | NCAC | 69 | .0501 |
| Readopt without Changes*   |     |      |    |       |
| <u>Disclosure for the Purpose of Research</u>                      | 10A | NCAC | 69 | .0502 |
| Readopt without Changes*   |     |      |    |       |
| <u>Disclosure for Purposes of Accountability</u>                   | 10A | NCAC | 69 | .0503 |
| Readopt without Changes*   |     |      |    |       |
| <u>Disclosure Pursuant to Other Laws</u>                           | 10A | NCAC | 69 | .0504 |
| Readopt without Changes*   |     |      |    |       |
| <u>Disclosure Pursuant to a Court Order</u>                        | 10A | NCAC | 69 | .0505 |
| Readopt without Changes*   |     |      |    |       |
| <u>Notice to Client</u>  | 10A | NCAC | 69 | .0506 |
| Readopt without Changes*   |     |      |    |       |
| <u>Documentation of Disclosure</u>                                 | 10A | NCAC | 69 | .0507 |
| Readopt without Changes*   |     |      |    |       |
| <u>Persons Designated to Disclose Information</u>                  | 10A | NCAC | 69 | .0508 |
| Readopt without Changes*   |     |      |    |       |
| <u>Information Needs of Service Providers</u>                      | 10A | NCAC | 69 | .0601 |
| Readopt without Changes*   |     |      |    |       |
| <u>Contract Restriction</u>  | 10A | NCAC | 69 | .0602 |
| Readopt without Changes*   |     |      |    |       |
| <u>Assurance of Confidentiality</u>                                | 10A | NCAC | 69 | .0603 |
| Readopt without Changes*   |     |      |    |       |
| <u>Ownership of Records</u>  | 10A | NCAC | 69 | .0604 |
| Readopt without Changes*   |     |      |    |       |
| <u>Liability of Service Providers</u>                              | 10A | NCAC | 69 | .0605 |
| Readopt without Changes*   |     |      |    |       |

The rules in Chapter 72 concern educational assistance including general rules (.0100); eligibility (.0200); and application (.0300).

|                          |     |      |    |       |
|--------------------------|-----|------|----|-------|
| <u>Scope</u>             | 10A | NCAC | 72 | .0101 |
| Readopt without Changes* |     |      |    |       |
| <u>Definitions</u>       | 10A | NCAC | 72 | .0102 |
| Readopt without Changes* |     |      |    |       |
| <u>General Rule</u>      | 10A | NCAC | 72 | .0201 |



|   |     |      |    |       |
|---|-----|------|----|-------|
| Readopt without Changes*                  |     |      |    |       |
| <u>Satisfactory Progress Requirement</u>  | 10A | NCAC | 72 | .0202 |
| Readopt without Changes*                  |     |      |    |       |
| <u>Limitations of Award</u>               | 10A | NCAC | 72 | .0203 |
| Readopt without Changes*                  |     |      |    |       |
| <u>Scholarship Application Procedures</u> | 10A | NCAC | 72 | .0301 |
| Readopt without Changes*                  |     |      |    |       |

## **CODE OFFICIALS QUALIFICATION BOARD**

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

|  |    |      |    |       |
|--|----|------|----|-------|
| <u>Nature of Probationary Certificate</u>  | 11 | NCAC | 08 | .0602 |
| Readopt with Changes*                      |    |      |    |       |
| <u>Special Circumstances</u>               | 11 | NCAC | 08 | .0707 |
| Readopt with Changes*                      |    |      |    |       |
| <u>Certificate</u>                         | 11 | NCAC | 08 | .0708 |
| Readopt without Changes*                   |    |      |    |       |
| <u>Inactive Code Enforcement Officials</u> | 11 | NCAC | 08 | .0714 |
| Readopt with Changes*                      |    |      |    |       |

## **JUSTICE, DEPARTMENT OF**

The rules in Chapter 2 are from the Office of the Attorney General.

The rules in Subchapter 02I concern company and railroad police including general provisions (.0100); commissioning (.0200); conduct of commissioner policemen (.0300); procedural rules (.0400) and agency record retention (.0500).

|  |    |      |     |       |
|--|----|------|-----|-------|
| <u>Period of Suspension, Revocation or Denial</u>            | 12 | NCAC | 02I | .0213 |
| Amend*   |    |      |     |       |
| <u>Badges, Uniforms, Vehicles and Officer Identification</u> | 12 | NCAC | 02I | .0306 |
| Adopt*   |    |      |     |       |

## **ENVIRONMENTAL MANAGEMENT COMMISSION**

The rules in Chapter 2 concern environmental management and are promulgated by the Environmental Management Commission or the Department of Environment and Natural Resources. The rules in Subchapter 02C concern well construction standards including criteria and standards applicable to water-supply and certain other type wells (.0100); criteria and standards applicable to injection wells (.0200); and permitting and inspection of private drinking water wells (.0300).

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>General Provisions</u>                            | 15A | NCAC | 02C | .0101 |
| Readopt without Changes*                             |     |      |     |       |
| <u>Definitions</u>                                   | 15A | NCAC | 02C | .0102 |
| Readopt with Changes*                                |     |      |     |       |
| <u>Permits</u>                                       | 15A | NCAC | 02C | .0105 |
| Readopt with Changes*                                |     |      |     |       |
| <u>Standards of Construction: Water Supply Wells</u> | 15A | NCAC | 02C | .0107 |
| Readopt with Changes*                                |     |      |     |       |

|   |     |      |     |       |
|---|-----|------|-----|-------|
| <u>Standards of Construction: Wells other than Water Supply</u><br>Readopt with Changes*        | 15A | NCAC | 02C | .0108 |
| <u>Pumps and Pumping Equipment</u><br>Readopt with Changes*                                     | 15A | NCAC | 02C | .0109 |
| <u>Well Tests for Yield</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0110 |
| <u>Disinfection of Water Supply Wells</u><br>Readopt with Changes*                              | 15A | NCAC | 02C | .0111 |
| <u>Well Maintenance: Repair: Groundwater Resources</u><br>Readopt with Changes*                 | 15A | NCAC | 02C | .0112 |
| <u>Abandonment of Wells</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0113 |
| <u>Data and Records Required</u><br>Readopt with Changes*                                       | 15A | NCAC | 02C | .0114 |
| <u>Designated Areas: Wells Cased to Less than 20 Feet</u><br>Readopt with Changes*              | 15A | NCAC | 02C | .0116 |
| <u>Designated Areas: Water Supply Wells Cased to Minimum Dep...</u><br>Readopt without Changes* | 15A | NCAC | 02C | .0117 |
| <u>Variance</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0118 |
| <u>Delegation</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0119 |
| <u>Purpose</u><br>Readopt without Changes*  | 15A | NCAC | 02C | .0201 |
| <u>Scope</u><br>Readopt without Changes*  | 15A | NCAC | 02C | .0202 |
| <u>Conflict with other Laws, Rules, and Regulations</u><br>Readopt without Changes*             | 15A | NCAC | 02C | .0203 |
| <u>Definitions</u><br>Readopt with Changes*   | 15A | NCAC | 02C | .0204 |
| <u>Corrective Action</u><br>Readopt with Changes*   | 15A | NCAC | 02C | .0206 |
| <u>Mechanical Integrity</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0207 |
| <u>Financial Responsibility</u><br>Readopt without Changes*                                     | 15A | NCAC | 02C | .0208 |
| <u>Classification of Injection Wells</u><br>Readopt without Changes*                            | 15A | NCAC | 02C | .0209 |
| <u>Requirements: Wells Used to Inject Waste or Contaminants</u><br>Readopt without Changes*     | 15A | NCAC | 02C | .0210 |
| <u>General Permitting Requirements Applicable to all Injecti...</u><br>Readopt with Changes*    | 15A | NCAC | 02C | .0211 |
| <u>Permitting by Rule</u><br>Readopt without Changes*   | 15A | NCAC | 02C | .0217 |
| <u>Aquifer Recharge Wells</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0218 |
| <u>Aquifer Storage and Recovery Wells</u><br>Readopt with Changes*                              | 15A | NCAC | 02C | .0219 |
| <u>Aquifer Test Wells</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0220 |
| <u>Experimental Technology Wells</u><br>Readopt with Changes*                                   | 15A | NCAC | 02C | .0221 |

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Geothermal Aqueous Closed-Loop Wells</u><br>Readopt with Changes*                         | 15A | NCAC | 02C | .0222 |
| <u>Geothermal Direct Expansion Closed-Loop Wells</u><br>Readopt with Changes*                | 15A | NCAC | 02C | .0223 |
| <u>Geothermal Heating/Cooling Water Return Wells</u><br>Readopt with Changes*                | 15A | NCAC | 02C | .0224 |
| <u>Groundwater Remediation Wells</u><br>Readopt with Changes*                                | 15A | NCAC | 02C | .0225 |
| <u>Salinity Barrier Wells</u><br>Readopt with Changes*                                       | 15A | NCAC | 02C | .0226 |
| <u>Stormwater Drainage Wells</u><br>Readopt with Changes*                                    | 15A | NCAC | 02C | .0227 |
| <u>Subsidence Control Wells</u><br>Readopt with Changes*                                     | 15A | NCAC | 02C | .0228 |
| <u>Tracer Wells</u><br>Readopt with Changes*   | 15A | NCAC | 02C | .0229 |
| <u>Other Wells</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0230 |
| <u>Abandonment and Change-of-Status of Injection Wells and S...</u><br>Readopt with Changes* | 15A | NCAC | 02C | .0240 |
| <u>Variance</u><br>Readopt with Changes*   | 15A | NCAC | 02C | .0241 |
| <u>Delegation</u><br>Readopt without Changes*  | 15A | NCAC | 02C | .0242 |
| <u>Scope and Purpose</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0301 |
| <u>Definitions</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0302 |
| <u>Application for Permit</u><br>Readopt with Changes*                                       | 15A | NCAC | 02C | .0303 |
| <u>Permitting</u><br>Readopt with Changes*   | 15A | NCAC | 02C | .0304 |
| <u>Grout Inspection and Certification</u><br>Readopt with Changes*                           | 15A | NCAC | 02C | .0305 |
| <u>Well Completion and Certification</u><br>Readopt with Changes*                            | 15A | NCAC | 02C | .0306 |
| <u>Well Data and Records</u><br>Readopt with Changes*  | 15A | NCAC | 02C | .0307 |
| <u>Appeal Procedure</u><br>Readopt with Changes*   | 15A | NCAC | 02C | .0308 |
| <u>Well Abandonment and Certification</u><br>Adopt*  | 15A | NCAC | 02C | .0309 |

The rules in Subchapter 2H concern procedures for permits: approvals including point source discharges to the surface waters (.0100); waste not discharged to surface waters (.0200); coastal waste treatment disposal (.0400); water quality certification (.0500); laboratory certification (.0800); local pretreatment programs (.0900); stormwater management (.1000); biological laboratory certification (.1100); special orders (.1200); and discharges to isolated wetlands and isolated waters (.1300).

|                                   |     |      |     |       |
|-----------------------------------|-----|------|-----|-------|
| <u>Purpose</u><br>Readopt/Repeal* | 15A | NCAC | 02H | .0801 |
| <u>Scope</u><br>Readopt/Repeal*   | 15A | NCAC | 02H | .0802 |

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Definitions</u>   | 15A | NCAC | 02H | .0803 |
| Readopt with Changes*  |     |      |     |       |
| <u>Parameters for Which Certification May be Requested</u>       | 15A | NCAC | 02H | .0804 |
| Readopt with Changes*  |     |      |     |       |
| <u>Certification and Renewal of Certification</u>                | 15A | NCAC | 02H | .0805 |
| Readopt with Changes*  |     |      |     |       |
| <u>Fees Associated with Certification Program</u>                | 15A | NCAC | 02H | .0806 |
| Readopt with Changes*  |     |      |     |       |
| <u>Decertification and Civil Penalties</u>                       | 15A | NCAC | 02H | .0807 |
| Readopt with Changes*  |     |      |     |       |
| <u>Recertification</u>   | 15A | NCAC | 02H | .0808 |
| Readopt with Changes*  |     |      |     |       |
| <u>Reciprocity</u>   | 15A | NCAC | 02H | .0809 |
| Readopt with Changes*  |     |      |     |       |
| <u>Administration</u>  | 15A | NCAC | 02H | .0810 |
| Readopt/Repeal*  |     |      |     |       |
| <u>Purpose</u>   | 15A | NCAC | 02H | .1101 |
| Readopt with Changes*  |     |      |     |       |
| <u>Scope</u>   | 15A | NCAC | 02H | .1102 |
| Readopt/Repeal*  |     |      |     |       |
| <u>Definitions</u>   | 15A | NCAC | 02H | .1103 |
| Readopt with Changes*  |     |      |     |       |
| <u>Fees Associated with Certification Program</u>                | 15A | NCAC | 02H | .1104 |
| Readopt with Changes*  |     |      |     |       |
| <u>Certification</u>   | 15A | NCAC | 02H | .1105 |
| Readopt with Changes*  |     |      |     |       |
| <u>Decertification</u>   | 15A | NCAC | 02H | .1106 |
| Readopt with Changes*  |     |      |     |       |
| <u>Recertification</u>   | 15A | NCAC | 02H | .1107 |
| Readopt with Changes*  |     |      |     |       |
| <u>Reciprocity</u>   | 15A | NCAC | 02H | .1108 |
| Readopt with Changes*  |     |      |     |       |
| <u>Administration</u>  | 15A | NCAC | 02H | .1109 |
| Readopt with Changes*  |     |      |     |       |
| <u>Implementation</u>  | 15A | NCAC | 02H | .1110 |
| Readopt with Changes*  |     |      |     |       |
| <u>Biological Laboratory Certification and Quality Assurance</u> | 15A | NCAC | 02H | .1111 |
| Readopt with Changes*  |     |      |     |       |

The rules in Subchapter 2T set out the requirements for the issuance of permits for waste systems that do not discharge to the surface waters of the state and include general requirements (.0100); and requirements for various systems including: wastewater pump and haul systems (.0200); sewer extensions (.0300); system-wide collection system permitting (.0400); wastewater irrigation systems (.0500); single-family residence wastewater irrigation systems (.0600); high rate infiltration systems (.0700); other non-discharge wastewater systems (.0800); reclaimed water systems (.0900); closed-loop recycle systems (.1000); residuals management (.1100); coal combustion products management (.1200); animal waste management systems (.1300); manure hauler operations (.1400); soil remediation (.1500); and groundwater remediation systems (.1600).

|                              |     |      |     |       |
|------------------------------|-----|------|-----|-------|
| <u>Scope</u>                 | 15A | NCAC | 02T | .1601 |
| Repeal*                      |     |      |     |       |
| <u>Definitions</u>           | 15A | NCAC | 02T | .1602 |
| Repeal*                      |     |      |     |       |
| <u>Application Submittal</u> | 15A | NCAC | 02T | .1604 |
| Repeal*                      |     |      |     |       |

|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Design Criteria</u>                       | 15A | NCAC | 02T | .1605 |
| Repeal*                                      |     |      |     |       |
| <u>Setbacks</u>                              | 15A | NCAC | 02T | .1606 |
| Repeal*                                      |     |      |     |       |
| <u>Monitoring and Reporting Requirements</u> | 15A | NCAC | 02T | .1607 |
| Repeal*                                      |     |      |     |       |
| <u>Requirements for Closure</u>              | 15A | NCAC | 02T | .1608 |
| Repeal*                                      |     |      |     |       |

## **COASTAL RESOURCES COMMISSION**

The rules in Subchapter 7H are the state guidelines for areas of environmental concern (AECs) including introduction and general comments (.0100); the estuarine system (.0200); ocean hazard areas (.0300); public water supplies (.0400); natural and cultural resource areas (.0500); development standards (.0600); general permits for construction or maintenance of bulkheads and the placement of riprap for shoreline protection in estuarine and public trust waters (.1100); piers, docks and boat houses in estuarine and public trust waters (.1200); general permit to construct boat ramps along estuarine and public trust shorelines and into estuarine and public trust waters (.1300); groins in estuarine and public trust waters (.1400); excavation within or connecting to existing canals, channels, basins, or ditches in estuarine waters, public trust waters, and estuarine shoreline AECs (.1500); aerial and subaqueous utility lines with attendant structures in coastal wetlands, estuarine waters, public trust waters and estuarine shorelines (.1600); emergency work requiring a CAMA or a dredge and fill permit (.1700); beach bulldozing landward of the mean high-water mark in the ocean hazard AEC (.1800); temporary structures within the estuarine and ocean hazard AECs (.1900); authorizing minor modifications and repair to existing pier/mooring facilities in estuarine and public trust waters and ocean hazard areas (.2000); construction of sheetpile sill for shoreline protection in estuarine and public trust waters (.2100); construction of freestanding moorings in established waters and public trust areas (.2200); replacement of existing bridges and culverts in estuarine waters, estuarine shorelines, public trust areas and coastal wetlands (.2300); placement of riprap for wetland protection in estuarine and public trust waters (.2400); replacement of structures; the reconstruction of primary or frontal dune systems; and the maintenance excavation of existing canals, basins, channels, or ditches, damaged, destroyed, or filled in by hurricanes or tropical storms (.2500); construction of wetland, stream and buffer mitigation sites by the North Carolina Ecosystem Enhancement Program or the North Carolina Wetlands Restoration Program (.2600); and the construction of riprap sills for wetland enhancement in estuarine and public trust waters (.2700).

|                            |     |      |     |       |
|----------------------------|-----|------|-----|-------|
| <u>Purpose</u>             | 15A | NCAC | 07H | .2701 |
| Amend*                     |     |      |     |       |
| <u>General Conditions</u>  | 15A | NCAC | 07H | .2704 |
| Amend*                     |     |      |     |       |
| <u>Specific Conditions</u> | 15A | NCAC | 07H | .2705 |
| Amend*                     |     |      |     |       |

The rules in Subchapter 7J concern procedures for handling major development permits, variance requests, appeals from minor development permit decisions and declaratory rulings. They include definitions (.0100); permit application and procedures (.0200); hearing procedures (.0300); final approval and enforcement (.0400); general permits (.0500); declaratory rulings and petitions for rulemaking (.0600); procedures for considering variance petitions (.0700); general permit procedure (.1100); static vegetation line exception procedures (.1200); and development line procedures (.1300).

|                        |     |      |     |       |
|------------------------|-----|------|-----|-------|
| <u>Civil Penalties</u> | 15A | NCAC | 07J | .0409 |
| Amend*                 |     |      |     |       |

## **PUBLIC HEALTH, COMMISSION FOR**

The rules in Subchapter 18C are water supply rules including their protection and location (.0100-.0200), submission of plans, etc. (.0300), design criteria (.0400-.0500), raw surface water facilities (.0600), surface water treatment facilities (.0700), hydropneumatic storage tanks (.0800), distribution systems (.0900), disinfection (.1000), protection of unfiltered and filtered supplies (.1100-.1200), variances (.1300), fluoridation (.1400), water quality standards and variances (.1500-

.1600), systems grants (.1700), local plan approval (.1800), administrative penalties (.1900), filtration and disinfection (.2000); operating permits (.2100); and ground water systems (.2200).q

|   |     |      |     |       |
|---|-----|------|-----|-------|
| <u>Definitions</u>  | 15A | NCAC | 18C | .0102 |
| Readopt with Changes*   |     |      |     |       |
| <u>Removal of Dissolved Matter and Suspended Matter</u>             | 15A | NCAC | 18C | .0202 |
| Readopt with Changes*   |     |      |     |       |
| <u>Public Well Water Supplies</u>                                   | 15A | NCAC | 18C | .0203 |
| Readopt with Changes*   |     |      |     |       |
| <u>Approvals Necessary Before Contracting or Constructing</u>       | 15A | NCAC | 18C | .0305 |
| Readopt with Changes*   |     |      |     |       |
| <u>Engineer's Report, Water System Management Plan and Other...</u> | 15A | NCAC | 18C | .0307 |
| Readopt with Changes*   |     |      |     |       |
| <u>Water Supply Wells</u>   | 15A | NCAC | 18C | .0402 |
| Readopt with Changes*   |     |      |     |       |
| <u>Surface Water Facilities</u>                                     | 15A | NCAC | 18C | .0403 |
| Readopt with Changes*   |     |      |     |       |
| <u>Water Treatment Facilities</u>                                   | 15A | NCAC | 18C | .0404 |
| Readopt with Changes*   |     |      |     |       |
| <u>Storage of Finished Water</u>                                    | 15A | NCAC | 18C | .0405 |
| Readopt with Changes*   |     |      |     |       |
| <u>Distribution Systems</u>   | 15A | NCAC | 18C | .0406 |
| Readopt with Changes*   |     |      |     |       |
| <u>Lead Free Construction</u>                                       | 15A | NCAC | 18C | .0408 |
| Readopt with Changes*   |     |      |     |       |
| <u>Service Connections</u>  | 15A | NCAC | 18C | .0409 |
| Readopt with Changes*   |     |      |     |       |
| <u>Other Design Standards</u>                                       | 15A | NCAC | 18C | .0503 |
| Adopt*  |     |      |     |       |
| <u>Impoundments: Pre-Setting Reservoirs</u>                         | 15A | NCAC | 18C | .0601 |
| Readopt with Changes*   |     |      |     |       |
| <u>Mechanical Flocculation</u>                                      | 15A | NCAC | 18C | .0703 |
| Amend*  |     |      |     |       |
| <u>Sedimentation Basin</u>  | 15A | NCAC | 18C | .0706 |
| Readopt without Changes*  |     |      |     |       |
| <u>Solids Contact or Up-Flow Units</u>                              | 15A | NCAC | 18C | .0707 |
| Readopt with Changes*   |     |      |     |       |
| <u>Gravity Filters</u>  | 15A | NCAC | 18C | .0708 |
| Readopt without Changes*  |     |      |     |       |
| <u>Alternative Filtration Treatment Technologies</u>                | 15A | NCAC | 18C | .0711 |
| Readopt with Changes*   |     |      |     |       |
| <u>Pressure Filters</u>   | 15A | NCAC | 18C | .0713 |
| Readopt with Changes*   |     |      |     |       |
| <u>Pilot Plant Studies</u>  | 15A | NCAC | 18C | .0714 |
| Readopt with Changes*   |     |      |     |       |
| <u>Other Design Standards</u>                                       | 15A | NCAC | 18C | .0715 |
| Repeal*   |     |      |     |       |
| <u>Capacities: Determining Total Volume</u>                         | 15A | NCAC | 18C | .0803 |
| Readopt without Changes*  |     |      |     |       |
| <u>Pipe Laying</u>  | 15A | NCAC | 18C | .0904 |
| Amend*  |     |      |     |       |
| <u>Relation of Water Mains to Sewers</u>                            | 15A | NCAC | 18C | .0906 |

|   |     |      |     |       |
|---|-----|------|-----|-------|
| Readopt with Changes*   |     |      |     |       |
| <u>Disinfection of Wells</u>                                      | 15A | NCAC | 18C | .1002 |
| Readopt with Changes*   |     |      |     |       |
| <u>Disinfection of Storage Tanks and Distribution Systems</u>     | 15A | NCAC | 18C | .1003 |
| Readopt with Changes*   |     |      |     |       |
| <u>Disinfection of Filters</u>                                    | 15A | NCAC | 18C | .1004 |
| Readopt with Changes*   |     |      |     |       |
| <u>Control of Treatment Process</u>                               | 15A | NCAC | 18C | .1406 |
| Readopt with Changes*   |     |      |     |       |
| <u>Corrosion Control and Lead and Copper Monitoring</u>           | 15A | NCAC | 18C | .1507 |
| Readopt with Changes*   |     |      |     |       |
| <u>Inorganic Chemical Sampling and Analysis</u>                   | 15A | NCAC | 18C | .1508 |
| Amend*  |     |      |     |       |
| <u>Special Monitoring for Sodium</u>                              | 15A | NCAC | 18C | .1509 |
| Amend*  |     |      |     |       |
| <u>Concentration of Iron</u>                                      | 15A | NCAC | 18C | .1511 |
| Amend*  |     |      |     |       |
| <u>Concentration of Manganese</u>                                 | 15A | NCAC | 18C | .1512 |
| Amend*  |     |      |     |       |
| <u>Organic Chemicals Other than TTHM, Sampling and Analysis</u>   | 15A | NCAC | 18C | .1515 |
| Readopt with Changes*   |     |      |     |       |
| <u>Special Monitoring for Inorganic and Organic Chemicals</u>     | 15A | NCAC | 18C | .1516 |
| Readopt with Changes*   |     |      |     |       |
| <u>Monitoring Frequency for Radioactivity</u>                     | 15A | NCAC | 18C | .1519 |
| Amend*  |     |      |     |       |
| <u>Public Notification Requirements</u>                           | 15A | NCAC | 18C | .1523 |
| Readopt with Changes*   |     |      |     |       |
| <u>Reporting for Organic Chemicals</u>                            | 15A | NCAC | 18C | .1524 |
| Readopt with Changes*   |     |      |     |       |
| <u>Reporting Requirements</u>                                     | 15A | NCAC | 18C | .1525 |
| Amend*  |     |      |     |       |
| <u>Certified Laboratories</u>                                     | 15A | NCAC | 18C | .1527 |
| Readopt with Changes*   |     |      |     |       |
| <u>Alternate Analytical Techniques</u>                            | 15A | NCAC | 18C | .1528 |
| Readopt with Changes*   |     |      |     |       |
| <u>Point-of-Entry, Bottled Water, and Other Treatment Devices</u> | 15A | NCAC | 18C | .1529 |
| Readopt with Changes*   |     |      |     |       |
| <u>Variances and Exemptions</u>                                   | 15A | NCAC | 18C | .1532 |
| Amend*  |     |      |     |       |
| <u>Maximum Containment Levels for Coliform Bacteria</u>           | 15A | NCAC | 18C | .1535 |
| Amend*  |     |      |     |       |
| <u>Drinking Water Additives</u>                                   | 15A | NCAC | 18C | .1537 |
| Amend*  |     |      |     |       |
| <u>Consumer Confidence Report</u>                                 | 15A | NCAC | 18C | .1538 |
| Amend*  |     |      |     |       |
| <u>Notice</u>   | 15A | NCAC | 18C | .1804 |
| Amend*  |     |      |     |       |
| <u>General Requirements</u>                                       | 15A | NCAC | 18C | .2001 |
| Amend*  |     |      |     |       |
| <u>Disinfection</u>   | 15A | NCAC | 18C | .2002 |
| Amend*  |     |      |     |       |
| <u>Criteria for Avoiding Filtration</u>                           | 15A | NCAC | 18C | .2005 |

Amend\*

Disinfectants and Disinfection Byproducts

15A NCAC 18C .2008

Amend\*

## **TRANSPORTATION, DEPARTMENT OF**

The rules in Chapter 2 are from the Division of Highways.

The rules in Subchapter 2D concern highway operations including standards for design and construction (.0100); landscape (.0200); field operations-maintenance and equipment (.0400); ferry operations (.0500); oversize-overweight permits (.0600); highway design branch (.0700); prequalification advertising and bidding regulations (.0800); regulations for informal construction and repair contracts (.0900); adopt-a-highway program (.1000); and disadvantaged business enterprise, minority business enterprise and women business enterprise programs for highway and bridge construction contracts (.1100).

Maintenance within Municipalities

19A NCAC 02D .0404

Readopt without Changes\*

Construction and Maintenance of Sidewalks

19A NCAC 02D .0406

Readopt without Changes\*

Permits-Authority, Application and Enforcement

19A NCAC 02D .0601

Amend\*

Permits-Issuance and Fees

19A NCAC 02D .0602

Readopt without Changes\*

Permits-Weight, Dimensions and Limitations

19A NCAC 02D .0607

Readopt without Changes\*

Permits - House Moves

19A NCAC 02D .0612

Readopt/Repeal\*

Denial: Revocation: Refusal to Review: Appeal: Invalidation

19A NCAC 02D .0633

Readopt without Changes\*

Escort Vehicle Driver Certification

19A NCAC 02D .0643

Readopt without Changes\*

Oversize-Overweight Load Escort Vehicle Operator Certific...

19A NCAC 02D .0644

Readopt without Changes\*

The rules in Subchapter 2E concern miscellaneous operations including tort claims (.0100); outdoor advertising (.0200); junkyard control (.0300); general ordinances (.0400); selective vegetation removal policy (.0600); professional or specialized services (.0700); solicitation of contributions for religious purposes at rest areas (.0800); distribution of newspapers from dispensers at rest areas and welcome centers (.0900); scenic byways (.1000); tourist-oriented directional sign program (.1100); private property owners (.1200).

Piling Obstructions on Highway or Within Right of Way

19A NCAC 02E .0402

Readopt without Changes\*

Depositing Mud on State Highways

19A NCAC 02E .0403

Readopt without Changes\*

Highway Obstructions Interfering with Traffic/Maintenance

19A NCAC 02E .0404

Readopt without Changes\*

Damage to State Highway System Surface or Shoulder

19A NCAC 02E .0405

Readopt without Changes\*

Vehicles Served by Service Station

19A NCAC 02E .0406

Readopt without Changes\*

Control and Regulation of Roadside Parks and Rest Areas

19A NCAC 02E .0407

Readopt without Changes\*

Fishing from Bridges

19A NCAC 02E .0408

Readopt without Changes\*



|  |     |      |     |       |
|--|-----|------|-----|-------|
| <u>Operating Nonmotorized Vehicles</u>                         | 19A | NCAC | 02E | .0409 |
| Readopt without Changes*                                       |     |      |     |       |
| <u>Hitchhiking on Interstate or Controlled Access Highways</u> | 19A | NCAC | 02E | .0410 |
| Readopt without Changes*                                       |     |      |     |       |
| <u>Jumping from Bridges</u>                                    | 19A | NCAC | 02E | .0411 |
| Readopt/Repeal*  |     |      |     |       |
| <u>Regulation of Airport Construction</u>                      | 19A | NCAC | 02E | .0423 |
| Readopt without Changes*                                       |     |      |     |       |
| <u>Access Routes for STAA Dimensioned Vehicles</u>             | 19A | NCAC | 02E | .0426 |
| Readopt without Changes*                                       |     |      |     |       |
| <u>Bicycle Trails</u>  | 19A | NCAC | 02E | .0427 |
| Readopt without Changes*                                       |     |      |     |       |

## **MEDICAL BOARD**

The rules in Subchapter 32B concern license to practice medicine including prescribing (.1000); general (.1300); resident's training license (.1400); faculty limited license (.1500); purpose license (.1600); other business (.1700); and expedited license for physician license (.2000).

|   |    |      |     |       |
|---|----|------|-----|-------|
| <u>Application for Physician License</u>                            | 21 | NCAC | 32B | .1303 |
| Amend*  |    |      |     |       |
| <u>Reinstatement of Physician License</u>                           | 21 | NCAC | 32B | .1350 |
| Amend*  |    |      |     |       |
| <u>Application for Medical School Faculty License</u>               | 21 | NCAC | 32B | .1502 |
| Amend*  |    |      |     |       |
| <u>Physician Practice and Limited License for Disasters and ...</u> | 21 | NCAC | 32B | .1706 |
| Adopt*  |    |      |     |       |
| <u>Expedited Application for Physician License</u>                  | 21 | NCAC | 32B | .2001 |
| Amend*  |    |      |     |       |

The rules in Subchapter 32N concern formal and informal proceedings.

|  |    |      |     |       |
|--|----|------|-----|-------|
| <u>Initiation of Disciplinary Hearings</u> | 21 | NCAC | 32N | .0110 |
| Amend*                                     |    |      |     |       |
| <u>Summary Suspension</u>                  | 21 | NCAC | 32N | .0114 |
| Adopt*                                     |    |      |     |       |

The rules in Subchapter 32S regulate physician assistants including physician assistant registration (.0200).

|   |    |      |     |       |
|---|----|------|-----|-------|
| <u>Limited Physician Assistant Practice and Limited License ...</u> | 21 | NCAC | 32S | .0219 |
| Amend*  |    |      |     |       |

The rules in Subchapter 32W concern the regulations of anesthesiologist assistants.

|   |    |      |     |       |
|---|----|------|-----|-------|
| <u>Anesthesiologist Assistant Practice and Limited License f...</u> | 21 | NCAC | 32W | .0116 |
| Adopt*  |    |      |     |       |

## **ONSITE WASTEWATER CONTRACTORS AND INSPECTORS CERTIFICATION BOARD**

The rules in Chapter 39 are from the Onsite Wastewater Contractors and Inspectors Certification Board and include definitions (.0100); certification of onsite wastewater contractors or inspectors (.0200); onsite wastewater contractor or inspector fees (.0300); certification by examination (.0400); certification renewal (.0500); continuing education requirements (.0600); procedures for disciplinary actions (.0700); onsite wastewater contractor or inspectors code of ethics (.0800) and rulemaking procedures (.0900).

|                       |    |      |    |       |
|-----------------------|----|------|----|-------|
| <u>Annual Reports</u> | 21 | NCAC | 39 | .0103 |
|-----------------------|----|------|----|-------|

|  |    |      |    |       |
|--|----|------|----|-------|
| Adopt*   |    |      |    |       |
| <u>Cooperation with Board Inquiry</u>              | 21 | NCAC | 39 | .0802 |
| Adopt*   |    |      |    |       |
| <u>Delegating to Third-Party Service Providers</u> | 21 | NCAC | 39 | .0803 |
| Adopt*   |    |      |    |       |
| <u>Petition for Rule-Making</u>                    | 21 | NCAC | 39 | .0901 |
| Adopt*   |    |      |    |       |
| <u>Request for Declaratory Ruling</u>              | 21 | NCAC | 39 | .0902 |
| Adopt*   |    |      |    |       |
| <u>Refusal to Issue Declaratory Ruling</u>         | 21 | NCAC | 39 | .0903 |
| Adopt*   |    |      |    |       |
| <u>On-Site Wastewater System Components</u>        | 21 | NCAC | 39 | .1005 |
| Amend*   |    |      |    |       |

## STATE HUMAN RESOURCES COMMISSION

The rules in Subchapter 1E cover employee benefits including general leave provisions (.0100); vacation leave (.0200); sick leave (.0300); workers compensation leave (.0700); military leave (.0800); holidays (.0900); miscellaneous leave (.1000); other types of leave without pay (.1100); community involvement (.1200); the voluntary shared leave program (.1300); family and medical leave (.1400); child involvement leave (.1500); community services leave (.1600); administrative leave (.1700) and incentive leave (.1800).

|  |    |      |     |       |
|--|----|------|-----|-------|
| <u>Separation: Payment of Vacation Leave</u> | 25 | NCAC | 01E | .0210 |
| Amend*                                       |    |      |     |       |
| <u>Coverage</u>                              | 25 | NCAC | 01E | .0704 |
| Amend*                                       |    |      |     |       |
| <u>Administration</u>                        | 25 | NCAC | 01E | .0705 |
| Amend*                                       |    |      |     |       |

The rules in Subchapter 1I concern service to local government including local government employment policies (.1700); general provisions (.1800); recruitment and selection (.1900); appointment and separation (.2000); compensation (.2100); hours of work and overtime compensation (.2200); disciplinary action, suspension, dismissal and appeals (.2300); and basic requirements for a substantially equivalent personnel system (.2400).

|   |    |      |     |       |
|---|----|------|-----|-------|
| <u>Employment of Relatives</u>                            | 25 | NCAC | 01I | .1702 |
| Amend*  |    |      |     |       |
| <u>Provisions for Tentative Temporary Classifications</u> | 25 | NCAC | 01I | .1805 |
| Amend*  |    |      |     |       |
| <u>Posting and Announcement of Vacancies</u>              | 25 | NCAC | 01I | .1902 |
| Amend*  |    |      |     |       |
| <u>Applicant Information and Application</u>              | 25 | NCAC | 01I | .1903 |
| Amend*  |    |      |     |       |
| <u>Selection</u>  | 25 | NCAC | 01I | .1905 |
| Amend*  |    |      |     |       |
| <u>Promotion</u>  | 25 | NCAC | 01I | .2003 |
| Amend*  |    |      |     |       |
| <u>Other Pay</u>  | 25 | NCAC | 01I | .2105 |
| Repeal*   |    |      |     |       |
| <u>Dismissal for Unsatisfactory Performance of Duties</u> | 25 | NCAC | 01I | .2302 |
| Amend*  |    |      |     |       |
| <u>Dismissal for Grossly Inefficient Job Performance</u>  | 25 | NCAC | 01I | .2303 |
| Amend*  |    |      |     |       |
| <u>Dismissal for Unacceptable Personal Conduct</u>        | 25 | NCAC | 01I | .2304 |
| Amend*  |    |      |     |       |

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***RULES REVIEW COMMISSION***

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|  |    |      |     |       |
|--|----|------|-----|-------|
| <u>Written Warning</u>                     | 25 | NCAC | 01I | .2305 |
| Amend*                                     |    |      |     |       |
| <u>Disciplinary Suspension Without Pay</u> | 25 | NCAC | 01I | .2306 |
| Amend*                                     |    |      |     |       |
| <u>Demotion</u>                            | 25 | NCAC | 01I | .2307 |
| Amend*                                     |    |      |     |       |
| <u>Appeals</u>                             | 25 | NCAC | 01I | .2310 |
| Amend*                                     |    |      |     |       |

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**CONTESTED CASE DECISIONS**

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*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](mailto:oah.clerks@oah.nc.gov) or phone 919-431-3000.*

**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  
Tenisha Jacobs

A. B. Elkins II  
Selina Malherbe  
J. Randolph Ward  
Stacey Bawtinheimer

| Year | Code | Number | Date Decision Filed    | Petitioner                                   |    | Respondent   | ALJ          |
|------|------|--------|------------------------|--|----|--|--------------|
|      |      |        |                        | <b><u>PUBLISHED</u></b>                      |    |  |              |
| 18   | CPS  | 03950  | 3/21/2019              | Debra M Robinson                             | v. | State Department of Public Safety<br>Victim Services       | May          |
|      |      |        |                        |  |    |  |              |
| 18   | DHR  | 05124  | 3/15/2019              | Michael Battle                               | v. | NC Nurse Aide Registry                                     | Lassiter     |
| 18   | DHR  | 06925  | 3/1/2019               | Step by Step Care Inc<br>Javondell Stallings | v. | Sandhills Center   | May          |
|      |      |        |                        |  |    |  |              |
| 18   | DOJ  | 05615  | 3/8/2019               | Franklin Hiller                              | v. | NC Sheriffs Education and Training<br>Standards Commission | Jacobs       |
| 18   | DOJ  | 06015  | 3/7/2019               | Charles Johnson<br>Gray                      | v. | NC Private Protective Services Board                       | Overby       |
| 18   | DOJ  | 06378  | 3/8/2019               | Shalom Yehu<br>Williams                      | v. | NC Private Protective Services Board                       | Lassiter     |
| 18   | DOJ  | 06379  | 3/8/2019               | Adonis Cantrell<br>Mccoy                     | v. | NC Private Protective Services Board                       | Ward         |
| 18   | DOJ  | 06380  | 3/8/2019;<br>3/13/2019 | Geoffrey Lawrence<br>Jahn                    | v. | NC Private Protective Services Board                       | Overby       |
| 18   | DOJ  | 06382  | 3/22/2019              | Stevie Earl Dunn Jr                          | v. | NC Private Protective Services Board                       | Bawtinheimer |
| 18   | DOJ  | 07523  | 3/21/2019              | Matthew Wayne<br>Carmichael                  | v. | NC Alarm Systems Licensing Board                           | Bawtinheimer |
| 18   | DOJ  | 07767  | 3/22/2019              | Brandon Elyle<br>Williams                    | v. | NC Private Protective Services Board                       | Bawtinheimer |
| 19   | DOJ  | 00352  | 3/25/2019              | Leroy Mcfadden Jr                            | v. | NC Private Protective Services Board                       | Bawtinheimer |
| 19   | DOJ  | 00353  | 3/21/2019              | Joseph Anthony<br>Cina                       | v. | NC Private Protective Services Board                       | Bawtinheimer |
|      |      |        |                        |  |    |  |              |
|      |      |        |                        |  |    |  |              |

**CONTESTED CASE DECISIONS**

|    |     |       |           | <b><u>UNPUBLISHED</u></b>                |    |  |          |
|----|-----|-------|-----------|--|----|--|----------|
| 18 | ABC | 06861 | 3/8/2019  | NC Alcoholic Beverage Control Commission | v. | Furmas LLC T/A Tryon Food and Fuel   | Sutton   |
|    |     |       |           |  |    |  |          |
| 18 | BMT | 06694 | 3/5/2019  | James Yoo                                | v. | NC Board of Massage and Bodywork Therapy   | Elkins   |
|    |     |       |           |  |    |  |          |
| 17 | CSE | 06917 | 3/6/2019  | Dustin Gray Burton                       | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward     |
| 17 | CSE | 07507 | 3/21/2019 | Kelvin Jamison                           | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Malherbe |
| 17 | CSE | 07509 | 3/21/2019 | Kelvin Jamison                           | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Malherbe |
| 17 | CSE | 07536 | 3/6/2019  | Keith E Wood                             | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Ward     |
| 17 | CSE | 07852 | 3/6/2019  | Chauncey D Burgess                       | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward     |
| 17 | CSE | 07854 | 3/6/2019  | Carlo Cook                               | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward     |
| 17 | CSE | 08056 | 3/6/2019  | Antonio Davis                            | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward     |
| 18 | CSE | 02144 | 3/13/2019 | Gregory A Lake                           | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward     |
| 18 | CSE | 03034 | 3/21/2019 | Janine Gerber                            | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward     |
| 18 | CSE | 06145 | 3/28/2019 | John Anthony McDonald II                 | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Elkins   |
| 18 | CSE | 06411 | 3/6/2019  | Edward Turner                            | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Ward     |
| 18 | CSE | 06412 | 3/11/2019 | Teesha Worrell                           | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Elkins   |
| 18 | CSE | 06418 | 3/15/2019 | Robert W Kreuger III                     | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Jacobs   |
| 18 | CSE | 06480 | 3/13/2019 | Lifang Cai                               | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Elkins   |
| 18 | CSE | 06484 | 3/11/2019 | Michael Adam Song                        | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Elkins   |
| 18 | CSE | 06489 | 3/13/2019 | Christopher Bibey                        | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Elkins   |

**CONTESTED CASE DECISIONS**

|    |     |       |           |                            |    |  |              |
|----|-----|-------|-----------|----------------------------|----|--|--------------|
| 18 | CSE | 06551 | 3/6/2019  | Lonnie Melton<br>Foster Jr | v. | NC Department of Health and Human<br>Services  | Jacobs       |
| 18 | CSE | 06552 | 3/14/2019 | Dion M Barber              | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Bawtinheimer |
| 18 | CSE | 06553 | 3/11/2019 | Rolando Souffrain          | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Elkins       |
| 18 | CSE | 06603 | 3/26/2019 | Maurice Jackson            | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | May          |
| 18 | CSE | 06605 | 3/19/2019 | Brett Huntsinger           | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Malherbe     |
| 18 | CSE | 06636 | 3/22/2019 | Jose F Garcia              | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Sutton       |
| 18 | CSE | 06645 | 3/4/2019  | Jeanette Qalagari          | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Ward         |
| 18 | CSE | 06671 | 3/28/2019 | Michael J Gentry           | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Ward         |
| 18 | CSE | 06712 | 3/26/2019 | Lance O Chadwick           | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Lassiter     |
| 18 | CSE | 06713 | 3/13/2019 | Johntia L Barnette         | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Malherbe     |
| 18 | CSE | 06745 | 3/18/2019 | Jason Lankford             | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Jacobs       |
| 18 | CSE | 06765 | 3/27/2019 | Lloyd T Parson             | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | May          |
| 18 | CSE | 06767 | 3/28/2019 | Joseph Eldridge            | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Overby       |
| 18 | CSE | 06865 | 3/8/2019  | Fesseha B Mulugeta         | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Malherbe     |
| 18 | CSE | 06875 | 3/26/2019 | Robert Pierce              | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | May          |
| 18 | CSE | 06910 | 3/13/2019 | Stanley St Vilus           | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement         | Malherbe     |
| 18 | CSE | 06943 | 3/18/2019 | Amos Teah                  | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Jacobs       |
| 18 | CSE | 06949 | 3/27/2019 | Rodney Jermaine<br>Wilson  | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Lassiter     |
| 18 | CSE | 06952 | 3/28/2019 | Stephen W Larose           | v. | NC Department of Health and Human<br>Services, Division of Social Services,<br>Child Support Enforcement Section | Overby       |

**CONTESTED CASE DECISIONS**

|    |     |       |           |   |    |  |              |
|----|-----|-------|-----------|---|----|--|--------------|
| 18 | CSE | 06958 | 3/18/2019 | Mark E Champ Sr   | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Sutton       |
| 18 | CSE | 06959 | 3/28/2019 | Charles Albert Loy  | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Overby       |
| 18 | CSE | 06961 | 3/12/2019 | Robert Nimocks III  | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Sutton       |
| 18 | CSE | 06963 | 3/1/2019  | David Brownstein  | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Sutton       |
| 18 | CSE | 06975 | 3/21/2019 | Alfonso F Rivero Jr   | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Ward         |
| 18 | CSE | 06981 | 3/21/2019 | Richard Seagroves   | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward         |
| 18 | CSE | 06984 | 3/21/2019 | Richard Seagroves   | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Ward         |
| 18 | CSE | 07763 | 3/21/2019 | Carlos Anderson   | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement Section | Ward         |
| 19 | CSE | 00075 | 3/21/2019 | Danny Friddle   | v. | NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement         | Bawtinheimer |
|    |     |       |           |   |    |  |              |
| 18 | DHR | 01772 | 3/5/2019  | Carlotta Best   | v. | North Carolina Department of Health and Human Services   | Elkins       |
| 18 | DHR | 05257 | 3/12/2019 | HAL-0130-038<br>Raintree Healthcare<br>of Concord LLC<br>DBA Concord<br>House | v. | NC Division of Health Service Regulation NC Department of Health and Human Services                        | Malherbe     |
| 18 | DHR | 06642 | 3/8/2019  | Sabrina Colson  | v. | Department of Health and Human Services, Division of Health Service Regulation                             | Overby       |
| 18 | DHR | 06643 | 3/8/2019  | Erica Terry   | v. | Department of Health and Human Services, Division of Health Service Regulation                             | Overby       |
| 18 | DHR | 06886 | 3/8/2019  | Sandra Ann Smith  | v. | DHHS   | Overby       |
| 19 | DHR | 00276 | 3/6/2019  | Shirley Burgess   | v. | NC Department of Health and Human Services, Division of Health Service Regulation                          | Ward         |
| 19 | DHR | 00363 | 3/11/2019 | Edoualdo Fleurant   | v. | Health Care Registry   | Malherbe     |
| 19 | DHR | 00464 | 3/28/2019 | Kendra Cooper   | v. | NC Department of Health and Human Services, Division of Health Service Regulation                          | May          |
| 19 | DHR | 01106 | 3/26/2019 | Ejate Houston   | v. | NC Department of Health and Human Services   | Malherbe     |
|    |     |       |           |   |    |  |              |
| 18 | DOJ | 05879 | 3/18/2019 | Mario Jo Ellis  | v. | NC Criminal Justice Education and Training Standards Commission  | Elkins       |
| 18 | DOJ | 07301 | 3/11/2019 | James Robert<br>Morgan  | v. | NC Private Protective Services Board   | Bawtinheimer |

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**CONTESTED CASE DECISIONS**

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|    |     |       |           |  |    |   |        |
|----|-----|-------|-----------|--|----|---|--------|
| 19 | DOJ | 00475 | 3/28/2019 | Integrity Protection<br>Services and Clifton<br>Lamont Tinnen<br>Qualifying Agent  | v. | NC Private Protective Services Board  | Elkins |
|    |     |       |           |  |    |   |        |
| 19 | DST | 00112 | 3/21/2019 | Lloyd McRae<br>Herring   | v. | NC Department of State Treasurer,<br>Retirement Systems Division                            | Ward   |
|    |     |       |           |  |    |   |        |
| 18 | OSP | 07731 | 3/5/2019  | Andrea Y Murphy  | v. | NC DHHS Office of Rural Health  | Elkins |
|    |     |       |           |  |    |   |        |
| 18 | SOS | 07647 | 3/1/2019  | Tornello F Pierce El-<br>Bey Consular for<br>Washitaw de<br>Dugdahmoundyah<br>Muur | v. | State of North Carolina Department of<br>the Secretary of State-Ann Wall General<br>Counsel | May    |