

NORTH CAROLINA REGISTER

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May 17, 2021

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PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
6714 Mail Service Center
Raleigh, NC 27699-6714
Telephone 984-236-1850
Fax 984-236-1947*

*Julian Mann III, Director
Dana McGhee, Publications Coordinator
Lindsay Silvester, Editorial Assistant
Cathy Matthews-Thayer, Editorial Assistant*

Contact List for Rulemaking Questions or Concerns

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

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

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Dana McGhee, Publications Coordinator	dana.mcghee@oah.nc.gov	984-236-1937
Lindsay Silvester, Editorial Assistant	lindsay.silvester@oah.nc.gov	984-236-1938
Cathy Matthews-Thayer, Editorial Assistant	cathy.thayer@oah.nc.gov	984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

Raleigh, North Carolina 27609

984-236-1850

984-236-1947 FAX

contact: Amber Cronk May, Commission Counsel	amber.may@oah.nc.gov	984-236-1936
Amanda Reeder, Commission Counsel	amanda.reeder@oah.nc.gov	984-236-1939
Ashley Snyder, Commission Counsel	ashley.snyder@oah.nc.gov	984-236-1941
Alexander Burgos, Paralegal	alexander.burgos@oah.nc.gov	984-236-1940
Julie Brincefield, Administrative Assistant	julie.brincefield@oah.nc.gov	984-236-1935

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Carrie Hollis, Economic Analyst

osbmruleanalysis@osbm.nc.gov 984-236-0689

NC Association of County Commissioners

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

919-715-2893

amy.bason@ncacc.org

NC League of Municipalities

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

919-715-2925

mjackson@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

Raleigh, North Carolina 27611

919-733-2578

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Jeremy Ray, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2021 – December 2021

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 th day from publication in the Register
35:13	01/04/21	12/08/20	01/19/21	03/05/21	03/22/21	04/15/21	05/01/21	10/01/21
35:14	01/15/21	12/21/20	01/30/21	03/16/21	03/22/21	04/15/21	05/01/21	10/12/21
35:15	02/01/21	01/08/21	02/16/21	04/05/21	04/20/21	05/20/21	06/01/21	10/29/21
35:16	02/15/21	01/25/21	03/02/21	04/16/21	04/20/21	05/20/21	06/01/21	11/12/21
35:17	03/01/21	02/08/21	03/16/21	04/30/21	05/20/21	06/17/21	07/01/21	11/26/21
35:18	03/15/21	02/22/21	03/30/21	05/14/21	05/20/21	06/17/21	07/01/21	12/10/21
35:19	04/01/21	03/11/21	04/16/21	06/01/21	06/21/21	07/15/21	08/01/21	12/27/21
35:20	04/15/21	03/24/21	04/30/21	06/14/21	06/21/21	07/15/21	08/01/21	01/10/22
35:21	05/03/21	04/12/21	05/18/21	07/02/21	07/20/21	08/19/21	09/01/21	01/28/22
35:22	05/17/21	04/26/21	06/01/21	07/16/21	07/20/21	08/19/21	09/01/21	02/11/22
35:23	06/01/21	05/10/21	06/16/21	08/02/21	08/20/21	09/16/21	10/01/21	02/26/22
35:24	06/15/21	05/24/21	06/30/21	08/16/21	08/20/21	09/16/21	10/01/21	03/12/22
36:01	07/01/21	06/10/21	07/16/21	08/30/21	09/20/21	10/21/21	11/01/21	03/28/22
36:02	07/15/21	06/23/21	07/30/21	09/13/21	09/20/21	10/21/21	11/01/21	04/11/22
36:03	08/02/21	07/12/21	08/17/21	10/01/21	10/20/21	11/18/21	12/01/21	04/29/22
36:04	08/16/21	07/26/21	08/31/21	10/15/21	10/20/21	11/18/21	12/01/21	05/13/22
36:05	09/01/21	08/11/21	09/16/21	11/01/21	11/22/21	12/16/21	01/01/22	05/29/22
36:06	09/15/21	08/24/21	09/30/21	11/15/21	11/22/21	12/16/21	01/01/22	06/12/22
36:07	10/01/21	09/10/21	10/16/21	11/30/21	12/20/21	01/20/22	02/01/22	06/28/22
36:08	10/15/21	09/24/21	10/30/21	12/14/21	12/20/21	01/20/22	02/01/22	07/12/22
36:09	11/01/21	10/11/21	11/16/21	01/03/22	01/20/22	02/17/22	03/01/22	07/29/22
36:10	11/15/21	10/22/21	11/30/21	01/14/22	01/20/22	02/17/22	03/01/22	08/12/22
36:11	12/01/21	11/05/21	12/16/21	01/31/22	02/21/22	03/17/22	04/01/22	08/28/22
36:12	12/15/21	11/22/21	12/30/21	02/14/22	02/21/22	03/17/22	04/01/22	09/11/22

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.



State of North Carolina

ROY COOPER
GOVERNOR

April 8, 2021

EXECUTIVE ORDER NO. 208

ESTABLISHING THE JUVENILE SENTENCE REVIEW BOARD

WHEREAS, Article III, Sections 1 and 5(6) of the North Carolina Constitution vests the power to grant reprieves, commutations, and pardons, after convictions, for all offenses (except in cases of impeachment), in the Governor, upon such conditions as he thinks proper, and subject to regulations prescribed by law relative to the manner of applying for pardons; and

WHEREAS, the North Carolina Constitution vests the authority to make such clemency determinations exclusively in the Governor; and

WHEREAS, the Governor may make clemency determinations in his sole discretion; and

WHEREAS, nothing in this Executive Order shall restrict or infringe upon the Governor's powers under the North Carolina Constitution to grant reprieves, commutations, and pardons, after conviction, for all offenses, upon such conditions as he may think proper; and

WHEREAS, developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds, specifically that juveniles have less control over themselves and their environments when compared to adults; and

WHEREAS, these psychological and neurological differences make juveniles less culpable for their conduct and more likely candidates for reform; and

WHEREAS, under the United States and North Carolina Constitutions, children are therefore treated differently from adults for purposes of sentencing; and

WHEREAS, the North Carolina General Assembly enacted the Juvenile Justice Reinvestment Act, ch. 57, sec. 16D.4.(a)-(tt), 2017 N.C. Sess. Law. 309-325, which raised the age of juvenile jurisdiction to eighteen (18), becoming the last state in the nation to no longer prosecute all sixteen (16)- and seventeen (17)-year-olds as adults; and

WHEREAS, data shows that over eighty (80) percent of the people committed to North Carolina prisons for crimes they committed as juveniles are people of color; and

WHEREAS, there is a long history of structural inequity and racism in the criminal justice system; and

WHEREAS, communities of color are disproportionately affected throughout the criminal justice system, with data showing that people of color make up nearly sixty (60) percent of the population of North Carolina's prisons; and

WHEREAS, a fair and equitable criminal justice system, free from racism and bias, is necessary to maintain the safety and well-being of the State of North Carolina; and

WHEREAS, a review mechanism for juvenile sentences will advance North Carolina's commitment to improve the administration of justice in this state and eliminate racial inequities in the criminal justice system.

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

Section 1. Juvenile Sentence Review Board.

A. Scope of Order.

This Executive Order establishes a mechanism to review sentences of imprisonment imposed in North Carolina on individuals who were tried and sentenced in adult criminal court for acts committed when under the age of eighteen (18) and who meet certain qualifying conditions set forth in Section 2 of this Executive Order (hereinafter, "juveniles").

B. Establishment and Purpose.

The North Carolina Juvenile Sentence Review Board ("Review Board") is hereby established as an advisory board. The mission of the Review Board is to review sentences imposed on juveniles in North Carolina and make recommendations to the Governor concerning clemency and commutation of such sentences when appropriate. In so doing, the Review Board will assist the Governor in fulfilling his constitutional duty to grant commutations or clemency upon such conditions as he deems proper, seek to eliminate disparate outcomes in the criminal justice system, and improve the administration of justice.

C. Duties.

This Review Board's mandate is to promote sentencing outcomes that consider the fundamental differences between juveniles and adults and address the structural impact of racial bias while maintaining public safety. The Review Board shall, for each petition under consideration pursuant to Section 2 below, determine whether to recommend commutation or clemency to the Governor. The Governor may act in accordance with the Review Board's recommendation but is not obligated to do so. The Review Board is expected to consult with local, state, and national criminal justice and racial justice experts and people with experiences relevant to the Review Board's mandate.

D. Membership.

The Review Board shall be comprised of four members, including a chair. All members shall be appointed by the Governor and shall serve at the Governor's pleasure. The Governor shall select the chair to lead the Review Board.

E. Administrative.

The Review Board shall serve without compensation but may receive per diem allowance and reimbursement for travel and subsistence expenses in accordance with state law and Office of State Budget and Management policies and regulations.

The Review Board is authorized to conduct its meetings in confidential sessions.

Section 2. Procedures for Review of Juvenile Sentences.

Any person held in the custody of the North Carolina Department of Public Safety ("DPS") for a crime they committed prior to the age of eighteen (18) may, on the person's own behalf or through counsel, petition the Review Board for review of their sentences upon the completion of the shorter of:

1. Twenty (20) years served on an active sentence; or
2. In the event of multiple or "stacked" sentences, the minimum term required by law of the longest sentence imposed, provided the juvenile has served at least fifteen (15) years active sentence.

The Review Board is directed to develop a standard petition form to be used by petitioners for these matters. Petitions shall be considered on a quarterly basis.

For each petition received, the Review Board shall determine whether to recommend commutation or clemency to the Governor. In making this determination, the Review Board shall consider:

1. The petition;
2. The petitioner's prison record;
3. Factors suggesting developmental immaturity in the commission of the crime, such as whether there was an adult co-defendant, whether the offense was committed with one or more accomplices, or other circumstances of the offense;
4. The petitioner's mental health at the time of the crime;
5. The input from the victim or members of the victim's immediate family;
6. The degree of risk the petitioner poses to society;
7. Rehabilitation and maturity demonstrated by the petitioner;
8. Whether the petitioner's race unduly influenced the trial or sentencing; and
9. Any other information the Review Board deems appropriate.

DPS and the Post-Release Supervision and Parole Commission shall provide records requested by the Review Board within thirty (30) days of such request. Consistent with the North Carolina Reentry Action Plan, DPS shall provide specialized reentry planning to individuals released following recommendation by the Review Board.

Section 3. Preservation of Governor's Clemency Powers.

Nothing in this Executive Order shall be construed to limit or infringe upon the Governor's authority under the North Carolina Constitution to grant reprieves, commutations, and pardons, after conviction, for all offenses, upon such conditions as he may think proper.

Section 4. Effective Date.

This Executive Order is effective immediately and shall remain in effect until December 31, 2024, unless repealed, replaced, or rescinded by another applicable Executive Order.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this 8th day of April in the year of our Lord two thousand and twenty-one.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State



PUBLIC NOTICE
STATE OF NORTH CAROLINA
ENVIRONMENTAL MANAGEMENT COMMISSION

The Division of Energy, Mineral, and Land Resources (DEMLR) invites public comment on, or objections to, the permitting actions listed below. Persons wishing to comment or object may submit written comments to the address below by the due dates indicated. All comments received prior to the dates will be considered in the final determinations regarding permit issuance. Public comments may result in changes to the proposed permitting actions. All comments should reference the specific permitting actions listed below and the permit number. DEMLR intends to revise and re-issue the following NPDES industrial stormwater General Permits with proposed re-issuance date 07/01/2021. The public comment period ends 06/16/2021.

[NCG020000 for Mining Activities stormwater, mine dewatering wastewater, and process wastewater discharges](#)

[NCG030000 for Metal Fabrication stormwater discharges](#)

[NCG060000 for Warehousing, Food and Kindred stormwater discharges](#)

[NCG080000 for Transit and Transportation stormwater discharges](#)

[NCG090000 for Paints and Varnishes stormwater discharges](#)

[NCG100000 for Used Motor Vehicles stormwater discharges](#)

[NCG120000 for Landfills stormwater discharges](#)

[NCG190000 for Marinas and Shipbuilding stormwater discharges](#)

The General Permits and Fact Sheets may be viewed beginning on 05/17/2021 at: <https://deq.nc.gov/news/events/public-notices-hearings>

Please direct comments or objections to:
Stormwater Program
NC Division of Energy, Mineral, and Land Resources
1612 Mail Service Center
Raleigh, NC 27699-1612
Telephone Number: (919) 707-3639
annette.lucas@ncdenr.gov

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days. Statutory reference: G.S. 150B-21.2.

TITLE 04 – DEPARTMENT OF COMMERCE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Credit Union Division intends to amend the rules cited as 04 NCAC 06C .0304 and .0305.

Link to agency website pursuant to G.S. 150B-19.1(e): http://www.nccud.org

Proposed Effective Date: September 1, 2021

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A public hearing may be demanded by written request to Tony Knox, Deputy Administrator of the North Carolina Department of Commerce/Credit Union Division within 15 days of the publication of the Notice of Text.

Reason for Proposed Action:

04 NCAC 06C .0304 MANAGEMENT DUTIES - Proposed for amendment to clarify expectations regarding the customary duties of management.

04 NCAC 06C .0305 INDEPENDENT AUDITS - Proposed for amendment to clarify the meaning of adequate audit and to be consistent with Federal Regulations, and to eliminate the requirement that audits be done in conjunction with member account verifications.

Comments may be submitted to: Tony Knox, Deputy Administrator, 205 W. Millbrook Road, STE 105, Raleigh, NC 27609; phone (984) 275-6733; fax (984) 275-6744; email tknox@nccud.org

Comment period ends: July 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 06 - CREDIT UNION DIVISION

SUBCHAPTER 06C - CREDIT UNIONS

SECTION .0300 - BASIC INTERNAL CONTROLS: ACCOUNTING PROCEDURES AND OPERATION STANDARDS FOR STATE-CHARTERED CREDIT UNIONS

04 NCAC 06C .0304 MANAGEMENT DUTIES

All credit unions shall conduct their business and the selection of their employees using a high degree of management and business skills to assure the safe and sound operation of the credit union. To maintain familiarity with current developments in the field of credit union management, services, and operations as may be necessary, all management personnel and employees of credit unions may avail themselves of the educational opportunities as may be provided by the League, the Credit Union Division, other trade associations, credit union support groups, and other industry training organizations. Management shall be responsible for:

- (1) implementing the policies established by the board of directors;
(2) ensuring the accuracy of the credit union's financial statements, reports, and any other supporting documents;
(3) adopting and implementing an annual budget;
(4) developing and implementing a written plan that guides the strategic direction of the credit union and that is also commensurate with the credit union's size and complexity;
(5) conducting performance evaluations of all employees of the credit union; and
(6) ensuring all directors, committee members, and employees of the credit union receive training through educational opportunities commensurate with their responsibilities and duties and document completion of the training. In the event examiners find that a director, committee member, or employee of the credit union has not received training commensurate with their responsibilities and duties, the Credit Union Division shall require training. Educational opportunities may be obtained from but not limited to the League, the Credit

Union Division, other trade associations, credit union support groups, and other industry training organizations.

Authority G.S. 54-109.12; 54-109.19; 54-109.35; 54-109.36; 54-109.92.

04 NCAC 06C .0305 INDEPENDENT AUDITS

~~(a) An audit of each state chartered credit unions shall occur at least once each calendar year and shall cover the period elapsed since the last audit. The audit will be performed using generally accepted auditing procedures and standards. It is the responsibility of the supervisory committee, or board of directors if there is no supervisory committee, to ensure that the annual audit is timely, that generally accepted auditing standards are used, that an adequate audit of the credit union records is conducted, and the audit report is promptly prepared and submitted to the board of directors. Workpapers of the supervisory committee and/or its independent auditors shall be made available for review by the Credit Union Division.~~

(a) An audit of each State-chartered credit union shall occur at least once each calendar year and shall cover the period elapsed since the last audit. The audit shall be performed using generally accepted auditing standards. It shall be the responsibility of the supervisory committee, or board of directors if there is no supervisory committee, to ensure that:

- (1) generally accepted auditing standards are used;
- (2) an audit of the credit union records is conducted using the minimum procedures applicable to federally insured State-chartered credit unions as set forth in 12 CFR Part 715, which is herein incorporated by reference, including subsequent amendments and editions, and may be found at no cost at www.ecfr.gov; and
- (3) the audit report is prepared and submitted to the board of directors.

Workpapers of the supervisory committee or its independent auditors shall be made available for review by the Credit Union Division.

~~(b) Compensated auditors performing audits for credit unions must shall be independent of the credit union's employees, members of the board of directors, supervisory committee, credit committee, and/or or the credit union's loan officers and members of their immediate families. For the purposes of this Rule, "member of their immediate families" includes immediate blood relatives, as well as those family members attained by marriage, including spouses, biological children, adopted children, and step-children. Compensated auditors must be a Certified Public Accountant (CPA), or a bonded auditing firm, or a person who is bonded or has accountants' professional liability insurance coverage.~~

~~(c) Annual verification of depositors' and members' accounts will be done in conjunction with the annual audit and shall be made by either a controlled verification of 100 percent of share, deposit and loan accounts or a controlled random sampling method that provides assurance that the General Ledger accounts are fairly stated and that members' and depositors' accounts are properly safeguarded.~~

(c) The supervisory committee, or board of directors if there is no supervisory committee, shall verify or cause to be verified all depositors' and members' accounts annually. The results of the member account verification shall be submitted to the board of directors for review. The verification of members' accounts shall be made using either of the following methods:

- (1) a controlled verification of 100 percent of share, deposit, and loan accounts; or
- (2) a controlled random sampling method that provides assurance that the general ledger accounts are fairly stated and that members' and depositors' accounts are properly safeguarded.

~~(d) A credit union shall obtain an outside independent audit by a certified public accountant CPA for any fiscal year during which:~~ any one of the following is present:

- ~~(1) the required annual audit was not performed or was not in accordance with Paragraphs (a), (b), and/or or (c) of this Rule; or~~
- ~~(2) the credit union has experienced serious and/or or persistent recordkeeping deficiencies. For the purposes of this Subparagraph, "persistent" Persistent means continuing to exist or endure. For the purposes of this Subparagraph, "serious" Serious is when the Division has there is given cause for concern that the financial condition is not fairly and accurately presented and/or or that management practices are not sufficient to safeguard the assets of the credit union.~~

~~When a credit union fails to comply with this Rule, the administrator Administrator has the authority to engage an outside certified public accountant CPA at the credit union's expense to conduct the required annual audit.~~

~~(e) This Rule shall not in any manner modify or limit the administrator's responsibility or authority to examine credit unions as set forth in G.S. 54-109.16, and it shall not modify or limit the administrator's authority to assess the cost of the examination against any credit union.~~

Authority G.S. 54-109.12; 54-109.17; 54-109.35(b); 54-109.49.

TITLE 07 – DEPARTMENT OF NATURAL AND CULTURAL RESOURCES

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 Natural and Cultural Resources intends to amend the rules cited as 07 NCAC 14A .0101; 14B .0706, readopt with substantive changes the rules cited as 07 NCAC 14B .0401, .0504, .0605, .0606, and repeal through readoption the rules cited as 07 NCAC 14B .0602, and .0607.

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://www.ncdcr.gov/request-public-comments>

Proposed Effective Date: September 1, 2021

Public Hearing:

Date: June 8, 2021

Time: 10:00 a.m.-11:00 a.m.

Location: This public hearing will be held by teleconference at (919) 707-8653 (no access code needed)

Reason for Proposed Action:

07 NCAC 14A .0101 and 07 NCAC 14B .0706 are being updated to reflect current information regarding the managing state agency and Zoo ticketing. The following rules are being readopted pursuant to the required rules review process and updated to reflect current Zoo operations:

07 NCAC 14B .0101, 07 NCAC 14B .0504, 07 NCAC 14B .0605, 07 NCAC 14B .0606. The following rules are being repealed because they are no longer necessary because of proposed changes in the readopted rules: 07 NCAC 14B .0602, 07 NCAC 14B .0607.

Comments may be submitted to: Jonathan Avery, 1615 Mail Service Center, Raleigh, NC 27699-1615; email jonathan.avery@ncdcr.gov

Comment period ends: July 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 14 - NORTH CAROLINA ZOOLOGICAL PARK REGULATIONS

SUBCHAPTER 14A - INTRODUCTION

07 NCAC 14A .0101 DEFINITIONS

As used in this Chapter:

- (1) "Council" means the North Carolina Zoological Park Council;
(2) "Department" means the North Carolina Department of Environment, Health, and Natural and Cultural Resources;
(3) "Foot Path or Trail" means any path or trail maintained for pedestrians;
(4) "Owner" means any person, owning, leasing, or having the exclusive use of property;
(5) "Zoo", "Park", and "Zoological Parks" mean those lands, facilities, programs, and other assets (including animals and plants) owned, controlled, or operated by the department for the use of the North Carolina Zoological Park;
(6) "Permits" means any written license issued by or under authority of the department permitting the performance of a specified act or acts;
(7) "Person" means any natural person, corporation, partnership, association, or governmental unit; and
(8) "Secretary" means the Secretary of the Department of Environment, Health, and Natural and Cultural Resources.

Authority G.S. 143B 10(j); 143B-135.205; 143B-135.204(a).

SUBCHAPTER 14B - GENERAL PROVISIONS

SECTION .0400 - FIREARMS: FIRES: ETC.

07 NCAC 14B .0401 FIREARMS

No one, except Zoo employees or officers of the law designated by the Director or his or her designated representative and law enforcement officials with jurisdictional authority, or other persons as defined in G.S. 14-269(b) and G.S. 14-415.27, may carry or possess firearms or airguns, bows and arrows, slingshots or deadly weapons of any kind as defined in G.S. 14-269 within the Zoo.

Authority G.S. 143-264(a); 143B-10(j); 143B-135.204(a).

SECTION .0500 - DISORDERLY CONDUCT: PUBLIC NUISANCE: ETC.

07 NCAC 14B .0504 ANIMALS AT LARGE

A person shall not cause or permit any animal owned by him, her, or his or her, in his or her custody, or under his or her control to enter the park perimeter fence of the Zoo, except as permitted by applicable federal and state law for service animals assisting individuals with disabilities. All animals on Zoo property outside of the perimeter fence must be leashed, harnessed, or otherwise controlled by the person in custody of the animal. Each animal found at large may be seized and disposed of as provided by local law covering disposal of stray animals on public property.

Authority G.S. 143-264(a); 143B 10(j); 143B-135.204(a).

SECTION .0600 - COMMERCIAL ENTERPRISES:
ADVERTISING: MEETINGS: EXHIBITIONS: ETC.

07 NCAC 14B .0602 PHOTOGRAPHS

Authority G.S. ~~113-264(a)~~; 143B 10(j); 143B-135.204(a).

07 NCAC 14B .0605 ~~MEETINGS AND EXHIBITIONS~~
~~USE OF FACILITIES AND GROUNDS~~

~~A person shall not hold any meeting or exhibition, perform any ceremony or make any speech unless he has written authorization from the director.~~

(a) Any person or group requesting to rent; commercially photograph, film or make other recordings; or otherwise use any of the Zoo's buildings or grounds for a private purpose shall obtain prior written permission from the Zoo Director, or his or her designee, for use of the building or grounds. For the purposes of this Rule, "a private purpose" includes activities which are outside of the daily operations of the Zoo. Prior to the approved use, the user shall enter into a written agreement setting forth the terms of the use of the requested facility or grounds.

(b) In determining whether to approve the use, the Zoo Director, or his or her designee, shall consider the following factors:

- (1) the reason for the use;
- (2) the availability of the requested facilities or grounds, or portion thereof;
- (3) the impact of the use on the operations of the Zoo, including the impact to public access and animal safety and health;
- (4) the impact of the use on the Zoo's resources, facilities and grounds; and
- (5) whether the use would be detrimental to the purposes or mission of the Zoo.

(c) Violation of the terms and conditions of the agreement issued in accordance with this Rule is prohibited and shall result in revocation by the Director or his or her designee.

Authority G.S. ~~131F~~; 143B-10(j); 143B-135.204(a).

07 NCAC 14B .0606 ALMS AND CONTRIBUTIONS

~~A No person and/or organization shall not solicit alms, donations, or contributions; distribute literature or other objects; or proselytize within the Park, except that persons soliciting for a religious organization of which they are a member or a charitable purpose, and persons engaged in fundraising activities sponsored by the Zoological Society for the purpose of supporting the Zoo or Society shall not be subject to this prohibition. In order to solicit for charitable purposes under this Rule, a person must be in compliance with the provisions of the North Carolina Charitable Solicitations Licensure Act, G.S. Chapter 131C, in accordance with a signed agreement issued pursuant to Rule .0605 of this Section or any persons engaged in fundraising activities sponsored by the North Carolina Zoological Society for the purpose of supporting the Zoo and in accordance with any agreements mutually approved by the Zoo and the North Carolina Zoological Society.~~

Authority G.S. ~~131F~~; 143B-10(j); 143B-135.204(a).

07 NCAC 14B .0607 SOLICITING DONATIONS:
DISTRIBUTING LITERATURE: GIFTS

Authority G.S. ~~131F~~; 143B-10(j); 143B-135.204(a).

SECTION .0700 - MISCELLANEOUS

07 NCAC 14B .0706 NORTH CAROLINA
ZOOLOGICAL PARK: ADMISSION FEES

(a) Information concerning admission fees for the North Carolina Zoological Park may be found at <http://www.nczoo.org/tickets.aspx?CID=211&pageid=12634>.
<https://tickets.nczoo.org/welcome.aspx>.

(b) Admission fees are subject to dynamic pricing and may change from time to time.

Authority G.S. 143B-135.205; 143B-135.213; 143B-135.204(a).

TITLE 15A – DEPARTMENT OF ENVIRONMENTAL
QUALITY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rules cited as 15A NCAC 02B .0202, .0208, .0211, .0212, .0214-.0216, .0218-.0220, .0301, and .0311.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://deq.nc.gov/news/events/public-notice-hearings>

Proposed Effective Date: January 1, 2022

Public Hearing:

Date: July 20, 2021

Time: 6:00 p.m.

Location:

In the abundance of caution, and to address protective measures to help prevent the spread of COVID-19, the NC Division of Water Resources is holding an online public hearing.

Date and time: Tuesday, July 20, 2021 6:00 pm

This public hearing can be joined starting at 5:45 pm via WebEx link:

<https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=e8fd0fdb064ce3b192a655956a9565f35>

Event number: 185 803 7435

Event password: ncdwr

Audio conference number: +1-415-655-0003

Audio conference access code: 185 803 7435

To register for the hearing and provide your preference regarding speaking at the hearing, please visit:

https://forms.office.com/Pages/ResponsePage.aspx?id=31F2etC5mkSFw-zCbNftGRcM2xmuszROiks3JDQp2_RURU8xVVk5Sk45N0xDVEVWtkFKQUtPVTVI0C4u

Or scan the following QR code with your phone:



Registration must be completed by 12:00 pm on July 20, 2021. If you have any problems registering online, please call 919-707-9011 by the registration deadline of 12:00 pm on July 20, 2021.

The Division of Water Resources highly recommends testing your computer's WebEx capabilities prior to the hearing at <https://www.webex.com/test-meeting.html>. For instructions about digital ways to join the public hearing, please refer to the WebEx Help Center online at <https://help.webex.com/en-us/>.

To comment during the hearing after your name is called as a registered speaker and/or after the hearing officer asks if any people wish to comment following the registered speakers:

- If you join the hearing by phone, press *3 to "raise your hand," speak once called upon to do so, and press *3 again to "lower your hand."

- If you join the hearing online, press the hand icon to "raise your hand," speak once called upon to do so, and press the hand icon again to "lower your hand."

- The Hearing Officer may limit the length of time that you may speak, so that all those who wish to speak may do so.

Reason for Proposed Action: The Environmental Management Commission (EMC) will conduct a public hearing to consider proposed permanent amendments to select rules in 15A NCAC 02B .0200 and .0300 that establish the surface water quality standards and classifications for North Carolina.

Every three years the State is required by the Clean Water Act to review its surface water quality classifications and standards to determine if amendments are needed and, if necessary, to enact those changes. This process is known as the "Triennial Review." These proposed amendments comprise the state's 2020-2022 Triennial Review of Surface Water Quality Standards.

The rules being proposed for amendment are 15A NCAC 02B .0202, .0208, .0211, .0212, .0214, .0215, .0216, .0218, .0219, .0220, .0301, and .0311. The Proposed changes include:

- The codification of the 1,4-Dioxane In-stream Target Value of 80 ug/L in 15A NCAC 02B .0208 for the protection of fish consumption in all waters,
- The codification of the 1,4-Dioxane In-stream Target Value of 0.35 ug/L in 15A NCAC 02B .0212, .0214, .0215, .0216, and .0218 for the protection of water and fish consumption in surface waters classified as Water Supplies,
- Updating the existing Cadmium freshwater dissolved, hardness-dependent acute, acute (trout), and chronic calculations for determination of standards for the protection of aquatic life in 15A NCAC 02B .0211. This

action is based on updated toxicology information from EPA's Aquatic Life Ambient Water Quality Criteria for Cadmium – 2016 (EPA-820-R-16-002)

- Updating the existing Cadmium saltwater dissolved acute and chronic standards for the protection of aquatic life in 15A NCAC 02B .0220 based on updated toxicology information from EPA's Aquatic Life Ambient Water Quality Criteria for Cadmium – 2016 (EPA-820-R-16-002)
- Updating the existing freshwater Cyanide (total) standard for the protection of aquatic life in 15A NCAC 02B .0211 to include Free Cyanide based on the recommended Cyanide criteria in EPA's 1984 Ambient Water Quality Criteria for Cyanide (EPA 440/5-84-028; January 1985). The inclusion of free cyanide reflects that 40 CFR Part 136 now lists approved analytical methods for analysis of free cyanide.
- Adoption of a site-specific standard for the protection of Primary Recreation in Class B waters in the 19 counties that comprise the Asheville Regional Office territory of the North Carolina Department of Environmental Quality. This site-specific standard will appear in 15A NCAC 02B .0219. *Escherichia coli* (*E. coli*) shall replace fecal coliforms as the pathogenic indicator in these waters.
- Updating the existing Selenium freshwater chronic standard for the protection of aquatic life in 15A NCAC 02B .0211 based on updated toxicology information from EPA's Aquatic Life Ambient Water Quality Criteria for Selenium (Freshwater) – 2016 (EPA 822-R-16-006). The proposed criteria include both fish tissue and water column concentrations that more accurately relate the adverse impacts to fish reproduction to the bioaccumulation of Selenium.
- Amend language in 15A NCAC 02B .0301 to address unnamed tributaries entering Eastern Band of Cherokee Indian boundaries.
- Add new definitions in 15A NCAC 02B .0202 for the terms "Lentic" and "Lotic" (these terms define the different flow rates associated with the proposed Selenium standard).
- Provide clarification for the existing "Industrial discharge" definition in 15A NCAC 02B .0202 to better match how this term is used in practice.
- Include technical corrections to existing language in the following rules:
 - o 15A NCAC 02B .0215
 - o 15A NCAC 02B .0216
 - o 15A NCAC 02B .0311

The Division of Water Resources will also accept comments on Variances to the water quality standards, the Fiscal Note prepared for this proposal, and other topics including, but not limited to:

- EPA's Aquatic Life Ambient Water Quality Criteria for Ammonia – Freshwater 2013 (EPA 820-F-13-013)
- EPA's 2015 Human Health Criteria updates (including updated exposure factors and updated criteria for 94 individual substances)

- *EPA's 2018 Final Aquatic Life Ambient Water Quality Criteria for Aluminum (EPA 822-R-18-001)*
- *Statewide adoption of EPA's 2012 Recreational Water Quality Criteria using E. Coli as the pathogenic indicator organism for Class B waters*
- *Contaminants of emerging concern (PFAS, pesticides, etc.)*

Comments may be submitted to: Christopher Ventaloro, NC DEQ-DWR Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611; email 15ANCAC02B_SWTriRev_Comments_2021@ncdenr.gov

Comment period ends: August 3, 2021

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 (>= \$1,000,000)
- Approved by OSBM
- No fiscal note required

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B - SURFACE WATER AND WETLAND STANDARDS

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS AND WETLANDS OF NORTH CAROLINA

15A NCAC 02B .0202 DEFINITIONS

The definition of any word or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The following words and phrases, which are not defined in this article, shall be interpreted as follows:

- (1) "Acute toxicity to aquatic life" means lethality or other harmful effects sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a short-term exposure

(relative to the life cycle of the organism) of 96 hours or less to a specific chemical or mixture of chemicals (as in an effluent). Acute toxicity shall be determined using the following procedures:

- (a) for specific chemical constituents or compounds, acceptable levels shall be equivalent to a concentration of one-half or less of the Final Acute Value (FAV) as determined according to "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic Life and its Uses" published by the Environmental Protection Agency and referenced in the Federal Register (50 FR 30784, July 29, 1985) which is incorporated by reference including subsequent amendments and editions.
 - (b) for specific chemical constituents or compounds for which values described under Sub-Item (a) of this Item cannot be determined, acceptable levels shall be equivalent to a concentration of one-third or less of the lowest available LC50 value.
 - (c) for effluents, acceptable levels shall be defined as no statistically measurable lethality (99 percent confidence level using Student's t-test) during a specified exposure period. Concentrations of exposure shall be based on permit requirements and procedures in accordance with 15A NCAC 02H .1110.
 - (d) in instances where detailed dose response data indicate that levels of acute toxicity are different from those defined in this Rule, the Director may determine on a case-by-case basis an alternate acceptable level through statistical analyses of the dose response in accordance with 15A NCAC 02H .1110.
- (2) "Acute to Chronic Ratio" or "ACR" means the ratio of acute toxicity expressed as an LC50 for a specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
 - (3) "Agricultural uses" means the use of waters for stock watering, irrigation, and other farm purposes.
 - (4) "Applicator" means any person, firm, corporation, wholesaler, retailer, or distributor; any local, State, or federal governmental agency; or any other person who applies fertilizer to the land of a consumer or client or to land that they own, lease, or otherwise hold rights.

- (5) "Approved treatment," as applied to water supplies, means treatment approved by the Division in accordance with 15A NCAC 18C .0301 through .0309, as authorized by G.S. 130A-315 and G.S. 130A-317.
- (6) "Attainable water uses" means uses that can be achieved by the imposition of effluent limits and cost effective and reasonable best management practices (BMP) for nonpoint source control.
- (7) "Average" means the arithmetical average of the analytical results of all representative samples taken under prevailing environmental conditions during a specified period (for example: daily, weekly, or monthly).
- (8) "Best Management Practice" or "BMP" means a structural or nonstructural management-based practice used singularly or in combination to reduce point source or nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (9) "Best usage" or "Best use" of waters, as specified for each class, means those uses as determined by the Environmental Management Commission in accordance with the provisions of G.S. 143-214.1.
- (10) "Bioaccumulation factor" or "BAF" means a unitless value that describes the degree to which substances are taken up or accumulated into tissues of aquatic organisms from water directly and from food or other ingested materials containing the accumulated substances, and is measured as a ratio of a substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from both water and the food chain.
- (11) "Bioconcentration factor" or "BCF" means a unitless value that describes the degree to which substances are absorbed or concentrated into tissues of aquatic organisms from water directly and is measured as a ratio of substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from water only.
- (12) "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of organisms having species composition, diversity, population densities, and functional organization similar to that of reference conditions.
- (13) "Buffer" means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
- (14) "Chronic toxicity to aquatic life" means any harmful effect sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to long-term exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the duration of a sensitive period of the life cycle to a specific chemical substance or mixture of chemicals (as in an effluent). In absence of extended periods of exposure, early life stage or reproductive toxicity tests may be used to define chronic impacts.
- (15) "Chronic value for aquatic life" means the geometric mean of two concentrations identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest Observable Effect Concentration (LOEC).
- (16) "Commercial applicator" means any person, firm, corporation, wholesaler, retailer, distributor, or any other person who for hire or compensation applies fertilizer to the land of a consumer or client.
- (17) "Concentration" means the mass of a substance per volume of water and, for the purposes of this Section, shall be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms per liter (ng/l).
- (18) "Contiguous" means those wetlands landward of the mean high water line or normal water level and within 575 feet of classified surface waters that appear as solid blue lines on the most recently published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, which are available at no cost at <http://www.usgs.gov/pubprod/>.
- (19) "Critical area" means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than risk associated with pollution from the remaining portions of the watershed. The boundary of a critical area is defined as:
 - (a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
 - (b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake (or other appropriate downstream location associated with the water supply) located directly in the stream or river (run-of-the-river) or to the ridge line of the watershed, whichever is nearest the intake; or

- (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.
- (20) "Cropland" means agricultural land that is not covered by a certified animal waste management plan and is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other vegetables or fruits.
- (21) "Designated Nonpoint Source Agency" means an agency specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency pursuant to the 1987 amendments to the federal Clean Water Act 33 U.S.C. 1329 that established Section 319 Nonpoint source management programs.
- (22) "Director" means the Director of the Division.
- (23) "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to State surface waters.
- (24) "Division" means the Division of Water Resources or its successors.
- (25) "Domestic wastewater discharge" means the discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater includes, but is not limited to, liquid waste generated by domestic water using fixtures and appliances from any residence, place of business, or place of public assembly, even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water, seafood packing facility discharges, and wastewater from restaurants.
- (26) "Effluent channel" means a discernable confined and discrete conveyance that is used for transporting treated wastewater to a receiving stream or other body of water, as provided in Rule .0228 of this Section.
- (27) "Existing uses" mean uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.
- (28) "Fertilizer" means any substance containing nitrogen or phosphorus that is used primarily as plant food.
- (29) "Fishing" means the taking of fish by recreational or commercial methods, the consumption of fish or shellfish, the propagation of fish, or the propagation of other aquatic life as is necessary to protect the biological integrity of the environment for fish.
- (30) "Forest vegetation" means the plants of an area that grow in disturbed or undisturbed conditions in wooded plant communities in any combination of trees, saplings, shrubs, vines, and herbaceous plants, including mature and successional forests and cutover stands.
- (31) "Freshwater" means all waters that under natural conditions have a chloride ion content of 500 mg/l or less.
- (32) "Industrial discharge" means the discharge of industrial process treated wastewater or wastewater other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:
 - (a) wastewater resulting from any process of industry or manufacture or from the development of any natural resource;
 - (b) wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants; and
 - (c) for the purpose of prohibiting discharges to waters classified as Water Supply (WS) in accordance with Rules .0212, .0214, .0215, .0216, and .0218 of this Section, wastewater discharged from a municipal wastewater treatment plant requiring required to administer a pretreatment program pursuant to 15A NCAC 02H .0904.
- (33) "Land-disturbing activity" means any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.
- (34) "LC50" means that concentration of a toxic substance that is lethal or immobilizing to 50 percent of the sensitive aquatic toxicity testing species tested during a specified exposure period, as required by NPDES permit, under aquatic conditions characteristic of the receiving waters. Sensitive species for aquatic toxicity testing is defined by Subparagraph Item (50) of this Rule.
- (35) "Lentic" means an aquatic ecosystem with standing or slow flowing water such as a lake, pond, or reservoir.
- ~~(35)~~(36) "Local government" means a city or county in singular or plural as defined in G.S. 160A-1(2) and G.S. 158A-10.
- (37) "Lotic" means an aquatic ecosystem with rapidly flowing water such as a stream or river.
- ~~(36)~~(38) "Lower piedmont and coastal plain waters" means those waters of the Catawba River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth,

- Yadkin, and Davie County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse, Tar-Pamlico, Chowan, Pasquotank, and White Oak River Basins; except tidal salt waters which are assigned S classifications.
- ~~(37)~~(39) "MF" means the membrane filter procedure for bacteriological analysis.
- ~~(38)~~(40) "Mixing zone" means a region of the receiving water in the vicinity of a discharge within which dispersion and dilution of constituents in the discharge occurs. Zones shall be subject to conditions established in accordance with Rule .0204(b) of this Section.
- ~~(39)~~(41) "Mountain and upper piedmont waters" means all of the waters of the Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins; and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie County lines.
- ~~(40)~~(42) "Nonpoint source pollution" means pollution that enters waters mainly as a result of precipitation and subsequent runoff from lands that have been disturbed by man's activities and includes all sources of water pollution that are not required to have a permit in accordance with G.S. 143-215.1(c).
- ~~(41)~~(43) "Non-process discharge" means industrial effluent not directly resulting from the manufacturing process. An example is non-contact cooling water from a compressor.
- ~~(42)~~(44) "Offensive condition" means any condition or conditions resulting from the presence of sewage, industrial wastes, or other wastes within the waters of the State or along the shorelines thereof that shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests; damage private or public water supplies or other structures; result in the development of gases which destroy or damage surrounding property, herbage or grasses; cause the impairment of taste such as from fish flesh tainting; or affect the health of any person residing or working in the area.
- ~~(43)~~(45) "Primary contact recreation" means swimming, diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis.
- ~~(44)~~(46) "Primary nursery area" or "PNA" means tidal saltwaters that provide essential habitat for the early development of commercially important fish and shellfish and are so designated by the Marine Fisheries Commission.
- ~~(45)~~(47) "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundary of a protected area is defined as:
- (a) extending either five miles in an as-the-river-runs manner upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
 - (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the intake located directly in the stream or river run-of-the-river or to the ridge line of the watershed, whichever is nearest the intake. In some cases the protected area shall encompass the entire watershed; or
 - (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- ~~(46)~~(48) "Residential development" means buildings for residence such as attached and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages, and their associated outbuildings such as garages, storage buildings, and gazebos.
- ~~(47)~~(49) "Residuals" has the same meaning as in 15A NCAC 02T .0103.
- ~~(48)~~(50) "Riparian area" means an area that is adjacent to a body of water.
- ~~(49)~~(51) "Secondary contact recreation" means wading, boating, other uses not involving human body contact with water, and activities involving human body contact with water where such activities take place on an infrequent, unorganized, or incidental basis.
- ~~(50)~~(52) "Sensitive species for aquatic toxicity testing" means any species utilized in procedures accepted by the Commission or its designee in accordance with Rule .0103 of this Subchapter, and the following genera:
- (a) Daphnia;
 - (b) Ceriodaphnia;
 - (c) Salmo;
 - (d) Pimephales;
 - (e) Mysidopsis;
 - (f) Champia;
 - (g) Cyprinodon;
 - (h) Arbacia;
 - (i) Penaeus;
 - (j) Menidia;
 - (k) Notropis;
 - (l) Salvelinus;

- (m) Oncorhynchus;
- (n) Selenastrum;
- (o) Chironomus;
- (p) Hyalella;
- (q) Lumbriculus.
- ~~(51)~~(53) "Shellfish culture" means the use of waters for the propagation, storage, and gathering of oysters, clams, and other shellfish for market purposes.
- ~~(52)~~(54) "Swamp waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and that have natural characteristics due to topography, such as low velocity, dissolved oxygen, or pH, that are different from streams draining steeper topography.
- ~~(53)~~(55) "Tidal salt waters" means all waters that have a natural chloride ion content in excess of 500 parts per million.
- ~~(54)~~(56) "Toxic substance" or "Toxicant" means any substance or combination of substances (including disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their offspring.
- ~~(55)~~(57) "Trout waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and have conditions that sustain and allow for natural trout propagation and survival and for year-round maintenance of stocked trout.
- ~~(56)~~(58) "Water dependent structures" means those structures that require access or proximity to or siting within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.
- ~~(57)~~(59) "Water quality based effluent limits (or limitations) and management practices" mean limits and practices developed by the Division to protect water quality standards and best uses of surface waters, consistent with the requirements of G.S. 143-214.1 and the federal Water Pollution Control Act, as amended.
- ~~(58)~~(60) "Waters with quality higher than the standards" means waters that the Director determines (pursuant to Rule .0206 of this Section) have the capacity to receive additional pollutant

loading and continue to meet applicable water quality standards.

- ~~(59)~~(61) "Watershed" means a natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the Commission as defined by G.S. 143-213(21).
- ~~(60)~~(62) "WER" or "Water effect ratio" expresses the difference between the measures of the toxicity of a substance in laboratory waters and the toxicity in site water.
- ~~(61)~~(63) "Wetlands" are "waters" as defined by G.S. 143-212(6) that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do not include prior converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is hereby incorporated by reference, not including subsequent amendments and editions, and is available free of charge at <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>.

Authority G.S. 143-213; 143-214.1; 143-215.3(a)(1).

15A NCAC 02B .0208 STANDARDS FOR TOXIC SUBSTANCES AND TEMPERATURE

(a) Toxic Substances: the concentration of toxic substances, either alone or in combination with other wastes, in surface waters shall not render waters injurious to aquatic life or wildlife, recreational activities, or public health, nor shall it impair the waters for any designated uses. Specific standards for toxic substances to protect freshwater and tidal saltwater uses are listed in Rules .0211 and .0220 of this Section, respectively. The narrative standard for toxic substances and numerical standards applicable to all waters shall be interpreted as follows:

- (1) The concentration of toxic substances shall not result in chronic toxicity to aquatic life. Any levels in excess of the chronic value for aquatic life shall be considered to result in chronic toxicity. In the absence of direct measurements of chronic toxicity, the concentration of toxic substances shall not exceed the concentration specified by the fraction of the lowest LC50 value that predicts a no effect chronic level as determined by the use of an acceptable Acute to Chronic Ratio (ACR) in accordance with U.S. Environmental Protection Agency (EPA) "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic Life and its Uses." In the absence of an ACR, that toxic substance shall not exceed one-one hundredth (0.01) of the lowest LC50 or, if it is demonstrated that a toxic substance has a

half-life of less than 96 hours, the maximum concentration shall not exceed one-twentieth (0.05) of the lowest LC50.

- (2) The concentration of toxic substances shall not exceed the level necessary to protect human health through exposure routes of fish tissue consumption, water consumption, recreation, or other route identified for the water body. Fish tissue consumption shall include the consumption of shellfish. These concentrations of toxic substances shall be determined as follows:

(A) For non-carcinogens, these concentrations shall be determined using a Reference Dose (RfD) as published by the EPA pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended, a RfD issued by the EPA as listed in the Integrated Risk Information System (IRIS) file, or a RfD approved by the Director after consultation with the State Health director. Water quality standards or criteria used to calculate water quality based effluent limitations to protect human health through the different exposure routes shall be determined as follows:

- (i) Fish tissue consumption:

$$WQS = (RfD \times RSC) \times \text{Body Weight} / (FCR \times BCF)$$
 where:

WQS = water quality standard or criteria;
 RfD = reference dose;
 RSC = Relative Source Contribution;
 FCR = fish consumption rate (based upon 17.5 gm/person-day);
 BCF = bioconcentration factor or bioaccumulation factor (BAF), as appropriate.

Pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended, BCF or BAF values, literature values, or site specific bioconcentration data shall be based on EPA publications; FCR values shall be average consumption rates for a 70 Kg adult for the lifetime of the population; alternative FCR values may be used when it is considered necessary to protect localized

populations that may be consuming fish at a higher rate; RSC values, when made available through EPA publications pursuant to Section 304(a) of the Federal Clean Water Pollution Control Act to account for non-water sources of exposure may be either a percentage (multiplied) or amount subtracted, depending on whether multiple criteria are relevant to the chemical;

- (ii) Water consumption (including a correction for fish consumption):

$$WQS = (RfD \times RSC) \times \text{Body Weight} / [WCR + (FCR \times BCF)]$$
 where:

WQS = water quality standard or criteria;
 RfD = reference dose;
 RSC = Relative Source Contribution;
 FCR = fish consumption rate (based upon 17.5 gm/person-day);
 BCF = bioconcentration factor or bioaccumulation factor (BAF), as appropriate;
 WCR = water consumption rate (assumed to be two liters per day for adults).

To protect sensitive groups, exposure shall be based on a 10 Kg child drinking one liter of water per day. Standards may also be based on drinking water standards based on the requirements of the Federal Safe Drinking Water Act, 42 U.S.C. 300(f)(g)-1. For non-carcinogens, specific numerical water quality standards have not been included in this Rule because water quality standards to protect aquatic life for all toxic substances for which standards have been considered are more stringent than numerical standards to protect human health from non-carcinogens through consumption of fish. Standards to protect human health from non-carcinogens through water consumption are listed under the

water supply classification standards in Rule .0211 of this Section. The equations listed in this Subparagraph shall be used to develop water quality based effluent limitations on a case-by-case basis for toxic substances that are not presently included in the water quality standards. Alternative FCR values may be used when it is necessary to protect localized populations that may be consuming fish at a higher rate;

(B) For carcinogens, the concentrations of toxic substances shall not result in unacceptable health risks and shall be based on a Carcinogenic Potency Factor (CPF). An unacceptable health risk for cancer shall be more than one case of cancer per one million people exposed (10^{-6} risk level). The CPF is a measure of the cancer-causing potency of a substance estimated by the upper 95 percent confidence limit of the slope of a straight line calculated by the Linearized Multistage Model or other appropriate model according to U.S. Environmental Protection Agency Guidelines, FR 51 (185): 33992-34003; and FR 45 (231 Part V): 79318-79379. Water quality standards or criteria for water quality based effluent limitations shall be calculated using the procedures given in this Part and in Part (A) of this Subparagraph. Standards to protect human health from carcinogens through water consumption are listed under the water supply classification standards in Rules .0212, .0214, .0215, .0216, and .0218 of this Section. Standards to protect human health from carcinogens through the consumption of fish (and shellfish) only shall be applicable to all waters as follows:

- (i) Aldrin: 0.05 ng/l;
- (ii) Arsenic: 10 ug/l;
- (iii) Benzene: 51 ug/l;
- (iv) Carbon tetrachloride: 1.6 ug/l;
- (v) Chlordane: 0.8 ng/l;
- (vi) DDT: 0.2 ng/l;
- (vii) Dieldrin: 0.05 ng/l;
- (viii) Dioxin: 0.000005 ng/l;
- (ix) Heptachlor: 0.08 ng/l;
- (x) Hexachlorobutadiene: 18 ug/l;
- (xi) Polychlorinated biphenyls (total of all identified PCBs and congeners): 0.064 ng/l;

- (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 31.1 ng/l;
- (xiii) Tetrachloroethane (1,1,2,2): 4 ug/l;
- (xiv) Tetrachloroethylene: 3.3 ug/l; ug/l;
- (xvi) Trichloroethylene: 30 ug/l;
- (xvii) Vinyl chloride: 2.4 ug/l; ug/l;
- (xviii) 1,4-Dioxane: 80 ug/l.

The values listed in Subparts (i) through ~~(xvii)~~(xviii) of this Part may be adjusted by the Commission or its designee on a case-by-case basis to account for site-specific or chemical-specific information pertaining to the assumed BCF, FCR, or CPF values or other data.

(b) Temperature: the Commission may establish a water quality standard for temperature for specific water bodies other than the standards specified in Rules .0211 and .0220 of this Section upon a case-by-case determination that thermal discharges to these waters that serve or may serve as a source or receptor of industrial cooling water provide for the maintenance of the designated best use throughout a portion of the water body. Such revisions of the temperature standard shall be consistent with the provisions of Section 316(a) of the Federal Water Pollution Control Act, as amended. A list of such revisions shall be maintained and made available to the public by the Division.

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

15A NCAC 02B .0211 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS C WATERS

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class C waters. Additional standards applicable to other freshwater classifications are specified in Rules .0212, .0214, .0215, .0216, .0218, .0219, .0223, .0224, .0225, and .0231 of this Section.

- (1) The best usage of waters shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing and fish); wildlife; secondary contact recreation as defined in Rule .0202 of this Section; agriculture; and any other usage except for primary contact recreation or as a source of water supply for drinking, culinary, and food processing purposes. All freshwaters shall be classified to protect these uses at a minimum.
- (2) The conditions of waters shall be such that waters are suitable for all best uses specified in this Rule. Sources of water pollution that preclude any of these uses on either a short-term or long-term basis shall be deemed to violate a water quality standard;
- (3) Chlorine, total residual: 17 ug/l;
- (4) Chlorophyll a (corrected): not greater than 40 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or

microscopic vegetation not designated as trout waters, and not greater than 15 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation designated as trout waters (not applicable to lakes or reservoirs less than 10 acres in surface area). The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;

- (5) Cyanide, free or total: 5.0 ug/l;
- (6) Dissolved oxygen: not less than 6.0 mg/l for trout waters; for non-trout waters, not less than a daily average of 5.0 mg/l with an instantaneous value of not less than 4.0 mg/l; swamp waters, lake coves, or backwaters, and lake bottom waters may have lower values if caused by natural conditions;
- (7) Fecal coliform: shall not exceed a geometric mean of 200/100ml (MF count) based upon at least five samples taken over a 30-day period, nor exceed 400/100ml in more than 20 percent of the samples examined during such period. Violations of this Item are expected during rainfall events and may be caused by uncontrollable nonpoint source pollution. All coliform concentrations shall be analyzed using the membrane filter technique. If high turbidity or other conditions would cause the membrane filter technique to produce inaccurate data, the most probable number (MPN) 5-tube multiple dilution method shall be used.
- (8) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the water unsafe or unsuitable for aquatic life and wildlife or impair the waters for any designated uses;
- (9) Fluoride: 1.8 mg/l;
- (10) Gases, total dissolved: not greater than 110 percent of saturation;
- (11) Metals:
 - (a) With the exception of ~~mercury and selenium~~, mercury, acute and chronic freshwater aquatic life standards for metals shall be based upon measurement of the dissolved fraction of the metal. Mercury ~~and selenium~~ water quality standards shall be based upon measurement of the total recoverable metal;
 - (b) With the exception of ~~mercury and selenium~~, mercury, aquatic life standards for metals listed in this Sub-Item shall apply as a function of the

pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division's satisfaction in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained free of charge at <http://water.epa.gov/scitech/swguidance/standards/handbook/>. Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commission that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure", which is hereby incorporated by reference including subsequent amendments and can be obtained free of charge at <http://water.epa.gov/scitech/swguidance/standards/handbook/>.

- (c) Freshwater metals standards that are not hardness-dependent shall be as follows:
 - (i) Arsenic, dissolved, acute: WER: 340 ug/l;
 - (ii) Arsenic, dissolved, chronic: WER: 150 ug/l;
 - (iii) Beryllium, dissolved, acute: WER: 65 ug/l;
 - (iv) Beryllium, dissolved, chronic: WER: 6.5 ug/l;
 - (v) Chromium VI, dissolved, acute: WER: 16 ug/l;
 - (vi) Chromium VI, dissolved, chronic: WER: 11 ug/l;
 - (vii) Mercury, total recoverable, chronic: 0.012 ug/l;
 - ~~(viii) Selenium, total recoverable, chronic: 5 ug/l;~~
 - ~~(ix)~~(viii) Silver, dissolved, chronic: WER: 0.06 ug/l;
- (d) Selenium, chronic: The standard for chronic selenium has the following components: fish egg/ovary tissue, fish whole body or muscle tissue, and water column (lentic and lotic). These components shall be used in the following order of preference provided data is available:
 - (i) Fish egg/ovary tissue:

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- (ii) Fish whole body or muscle tissue;
 - (iii) Water column.
- Fish tissue concentrations are determined as dry weight and water

column concentrations are based on the dissolved fraction of selenium. The chronic selenium standards are as follows:

Component		Magnitude	Duration
Fish tissue	Fish egg/ovary tissue	15.1 mg/kg	Instantaneous
	Fish whole body or muscle tissue	8.5 mg/kg whole body	Instantaneous
		11.3 mg/kg muscle	Instantaneous
Water column	Lentic or	1.5 ug/l lentic	30-day average
	Lotic	3.1 ug/l lotic	30-day average

(d)(e) Hardness-dependent freshwater metals standards shall be derived using the equations specified in Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals. If the actual instream hardness (expressed as CaCO₃ or Ca+Mg) is less than 400 mg/l, standards shall be calculated based upon the actual instream hardness. If the instream hardness is

greater than 400 mg/l, the maximum applicable hardness shall be 400 mg/l. Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals
 Numeric standards calculated at 25 mg/l hardness are listed below for illustrative purposes. The Water Effects Ratio (WER) is equal to one unless determined otherwise under Sub-Item (11)(b) of this Rule.

Metal	Equations for Hardness-Dependent Freshwater Metals (ug/l)	Standard at 25 mg/l hardness (ug/l)
Cadmium, Acute	WER = [1.136672 [ln hardness](0.041838)] · e^{0.9151 [ln hardness] - 3.1485} WER = [1.136672 - [ln hardness](0.041838)] · e ^{0.9789 [ln hardness] - 3.345}	0.82 0.83
Cadmium, Acute, Trout waters	WER = [1.136672 [ln hardness](0.041838)] · e^{0.9151 [ln hardness] - 3.6236} WER = [1.136672 - [ln hardness](0.041838)] · e ^{0.9789 [ln hardness] - 3.866}	0.51 0.49
Cadmium, Chronic	WER = [1.101672 [ln hardness](0.041838)] · e^{0.7998 [ln hardness] - 4.4451} WER = [1.101672 - [ln hardness](0.041838)] · e ^{0.7977 [ln hardness] - 3.909}	0.15 0.25
Chromium III, Acute	WER = [0.316 · e ^{0.8190 [ln hardness] + 3.7256}]	180
Chromium III, Chronic	WER = [0.860 · e ^{0.8190 [ln hardness] + 0.6848}]	24
Copper, Acute	WER = [0.960 · e ^{0.9422 [ln hardness] - 1.700}] Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	3.6 NA
Copper, Chronic	WER = [0.960 · e ^{0.8545 [ln hardness] - 1.702}] Or, Aquatic Life Ambient Freshwater Quality Criteria-Copper 2007 Revision (EPA-822-R-07-001)	2.7 NA

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Lead, Acute	WER: $\{1.46203 - [\ln \text{hardness}](0.145712)\} \cdot e^{\{1.273[\ln \text{hardness}] - 1.460\}}$	14
Lead, Chronic	WER: $\{1.46203 - [\ln \text{hardness}](0.145712)\} \cdot e^{\{1.273[\ln \text{hardness}] - 4.705\}}$	0.54
Nickel, Acute	WER: $[0.998 \cdot e^{\{0.8460[\ln \text{hardness}] + 2.255\}}]$	140
Nickel, Chronic	WER: $0.997 \cdot e^{\{0.8460[\ln \text{hardness}] + 0.0584\}}$	16
Silver, Acute	WER: $0.85 \cdot e^{\{1.72[\ln \text{hardness}] - 6.59\}}$	0.30
Zinc, Acute	WER: $[0.978 \cdot e^{\{0.8473[\ln \text{hardness}] + 0.884\}}]$	36
Zinc, Chronic	WER: $0.986 \cdot e^{\{0.8473[\ln \text{hardness}] + 0.884\}}$	36

- (f) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards, except for selenium shall only be evaluated using an average of a minimum of four samples taken on consecutive days or as a 96-hour average;
- (12) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, or to aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3(a)-(b), incorporated by reference including subsequent amendments and editions. This material is available, free of charge, at: <http://www.ecfr.gov/>;
- (13) Pesticides:
- (a) Aldrin: 0.002 ug/l;
 - (b) Chlordane: 0.004 ug/l;
 - (c) DDT: 0.001 ug/l;
 - (d) Demeton: 0.1 ug/l;
 - (e) Dieldrin: 0.002 ug/l;
 - (f) Endosulfan: 0.05 ug/l;
 - (g) Endrin: 0.002 ug/l;
 - (h) Guthion: 0.01 ug/l;
 - (i) Heptachlor: 0.004 ug/l;
 - (j) Lindane: 0.01 ug/l;
 - (k) Methoxychlor: 0.03 ug/l;
 - (l) Mirex: 0.001 ug/l;
 - (m) Parathion: 0.013 ug/l; and
 - (n) Toxaphene: 0.0002 ug/l;
- (14) pH: shall be between 6.0 and 9.0 except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (15) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (16) Polychlorinated biphenyls (total of all PCBs and congeners identified): 0.001 ug/l;
- (17) Radioactive substances, based on at least one sample collected per quarter:
- (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226 and radium-228 shall not exceed five picoCuries per liter;
 - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
 - (c) Beta Emitters: the average annual activity level for strontium-90 shall not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides) exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (18) Temperature: not to exceed 2.8 degrees C (5.04 degrees F) above the natural water temperature, and in no case to exceed 29 degrees C (84.2 degrees F) for mountain and upper piedmont waters and 32 degrees C (89.6 degrees F) for lower piedmont and coastal plain Waters; the temperature for trout waters shall not be increased by more than 0.5 degrees C (0.9 degrees F) due to the discharge of heated liquids, but in no case to exceed 20 degrees C (68 degrees F);
- (19) Toluene: 0.36 ug/l in trout classified waters or 11 ug/l in all other waters;
- (20) Trialkyltin compounds: 0.07 ug/l expressed as tributyltin;
- (21) Turbidity: the turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units (NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall not exceed 25 NTU; if turbidity exceeds these levels due to natural

background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be deemed met when land management activities employ Best Management Practices (BMPs), as defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.

- (22) Toxic Substance Level Applicable to NPDES Permits: Chloride: 230 mg/l. If chloride is determined by the waste load allocation to be exceeded in a receiving water by a discharge under the specified 7Q10 criterion for toxic substances, the discharger shall monitor the chemical or biological effects of the discharge. Efforts shall be made by all dischargers to reduce or eliminate chloride from their effluents. Chloride shall be limited as appropriate in the NPDES permit if sufficient information exists to indicate that it may be a causative factor resulting in toxicity of the effluent.

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

15A NCAC 02B .0212 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-I WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-I. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-I waters.

- (1) The best usage of waters classified as WS-I shall be as a source of water supply for drinking, culinary, or food processing purposes for those users desiring maximum protection of their water supplies in the form of the most stringent WS classification, and any best usage specified for Class C waters. Class WS-I waters are waters located on land in public ownership and waters located in undeveloped watersheds.
- (2) The best usage of waters classified as WS-I shall be maintained as follows:
 - (a) Water quality standards in a WS-I watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-I watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-I watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, and food-processing purposes that are specified in 40 CFR Part 141 National

Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500, incorporated by reference including subsequent amendments and editions.

- (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
 - (f) The Class WS-I classification may be used to protect portions of Class WS-II, WS-III, and WS-IV water supplies. For reclassifications occurring after the July 1, 1992 statewide reclassification, a WS-I classification that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.
- (3) Water quality standards applicable to Class WS-I Waters shall be as follows:
- (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Total coliforms shall not exceed 50/100 ml (MF count) as a monthly geometric mean value in watersheds serving as unfiltered water supplies;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (d) Solids, total dissolved: not greater than exceed 500 mg/l;
 - (e) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;

- (g) Toxic and other deleterious substances that are carcinogens:
 - (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l;
 - (xvi) Vinyl Chloride: 0.025 ~~ug/l~~ ug/l; and
 - (xvii) 1,4-Dioxane: 0.35 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-I watershed shall be permitted pursuant to 15A NCAC 02B .0104.
- (5) Nonpoint source pollution in a WS-I watershed shall not have an adverse impact, as defined in 15A NCAC 02H .1002, on use as a water supply or any other designated use.
- (b) Wastewater and stormwater point source discharges in a WS-II watershed shall meet the requirements as specified in Item (4) of this Rule.
- (c) Nonpoint source pollution in a WS-II watershed shall meet the requirements as specified in Item (5) of this Rule.
- (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, and food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.
- (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
- (f) The Class WS-II classification may be used to protect portions of Class WS-III and WS-IV water supplies. For reclassifications of these portions of Class WS-III and WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, a WS-II classification that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.

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

15A NCAC 02B .0214 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-II WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-II. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-II waters.

- (1) The best usage of waters classified as WS-II shall be as a source of water supply for drinking, culinary, or food-processing purposes for those users desiring maximum protection for their water supplies where a WS-I classification is not feasible as determined by the Commission in accordance with Rule .0212 of this Section and any best usage specified for Class C waters.
- (2) The best usage of waters classified as WS-II shall be maintained as follows:
 - (a) Water quality standards in a WS-II watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (3) Water quality standards applicable to Class WS-II Waters shall be as follows:
 - (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Odor producing substances contained in sewage or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as shall not cause organoleptic effects in water supplies that cannot be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H

- .1002, on any best usage established for waters of this class;
- (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (e) Solids, total dissolved: not greater than 500 mg/l;
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
 - (g) Toxic and other deleterious substances that are carcinogens:
 - (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; ~~and~~
 - (xvi) Vinyl Chloride: 0.025 ~~ug/l~~ ug/l; and
 - (xvii) 1,4-Dioxane: 0.35 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-II watershed shall meet the following requirements:
- (a) Discharges that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127 shall be allowed in the entire watershed.
 - (b) Discharges from trout farms that are subject to Individual NPDES Permits shall be allowed in the entire watershed.
- (c) Stormwater discharges that qualify for an Individual NPDES Permit pursuant to 15A NCAC 02H .0126 shall be allowed in the entire watershed.
- (d) No discharge of sewage, industrial, or other wastes shall be allowed in the entire watershed except for those allowed by Sub-Items (a) through (c) of this Item or Rule .0104 of this Subchapter, and none shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, a discharger shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility that may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.
- (e) New domestic and industrial discharges of treated wastewater that are subject to Individual NPDES Permits shall not be allowed in the entire watershed.
- (f) No new landfills shall be allowed in the Critical Area, and no NPDES permits shall be issued for landfills that discharge treated leachate in the remainder of the watershed.
- (g) No new permitted sites for land application of residuals or petroleum contaminated soils shall be allowed in the Critical Area.
- (5) Nonpoint source pollution in a WS-II watershed shall meet the following requirements:
- (a) Nonpoint source pollution shall not have an adverse impact on waters for use as a water supply or any other designated use.
 - (b) Class WS-II waters shall be protected as water supplies that are located in watersheds that meet average watershed development density levels specified for Class WS-II waters in Rule .0624 of this Subchapter.

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

**15A NCAC 02B .0215 FRESH SURFACE WATER
QUALITY STANDARDS FOR CLASS WS-III WATERS**

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-III. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-III waters.

- (1) The best usage of waters classified as WS-III shall be as a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I or WS-II classification is not feasible as determined by the Commission in accordance with Rules .0212 and .0214 of this Section and any other best usage specified for Class C waters.
- (2) The best usage of waters classified as WS-III shall be maintained as follows:
 - (a) Water quality standards in a WS-III watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-III watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-III watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.
 - (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
 - (f) The Class WS-III classification may be used to protect portions of Class WS-IV water supplies. For reclassifications of these portions of WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, a ~~WS-II classification~~ more protective classification, such as WS-III, that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-

214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.

- (3) Water quality standards applicable to Class WS-III Waters shall be as follows:
 - (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
 - (b) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or wastes, as shall not cause organoleptic effects in water supplies that cannot be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;
 - (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems from chlorinated phenols;
 - (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 - (e) Solids, total dissolved: not greater than 500 mg/l;
 - (f) Toxic and other deleterious substances that are non-carcinogens:
 - (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
 - (g) Toxic and other deleterious substances that are carcinogens:
 - (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;

- (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ug/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; ~~and~~
 - (xvi) Vinyl Chloride: 0.025 ~~ug/l~~ ug/l; and
 - (xvii) 1,4-Dioxane: 0.35 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-III watershed shall meet the following requirements:
- (a) Discharges that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127 shall be allowed in the entire watershed.
 - (b) Discharges from trout farms that are subject to Individual NPDES Permits shall be allowed in the entire watershed.
 - (c) Stormwater discharges that qualify for an Individual NPDES Permit pursuant to 15A NCAC 02H .0126 shall be allowed in the entire watershed.
 - (d) New domestic wastewater discharges that are subject to Individual NPDES Permits shall not be allowed in the Critical Area and are allowed in the remainder of the watershed.
 - (e) New industrial wastewater discharges that are subject to Individual NPDES Permits except non-process industrial discharges shall not be allowed in the entire watershed.
 - (f) No discharge of sewage, industrial, or other wastes shall be allowed in the entire watershed except for those allowed by Sub-Items (a) through (e) of this Item or Rule .0104 of this Subchapter, and none shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, a discharger shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility that may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.
- (g) No new landfills shall be allowed in the Critical Area, and no NPDES permits shall be issued for landfills to discharge treated leachate in the remainder of the watershed.
- (h) No new permitted sites for land application of residuals or petroleum contaminated soils shall be allowed in the Critical Area.
- (5) Nonpoint source pollution in a WS-III watershed shall meet the following requirements:
- (a) Nonpoint source pollution shall not have an adverse impact on waters for use as a water supply or any other designated use.
 - (b) Class WS-III waters shall be protected as water supplies that are located in watersheds that meet average watershed development density levels specified Class WS-III waters in Rule .0624 of this Subchapter.

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

15A NCAC 02B .0216 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-IV WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-IV. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-IV waters.

- (1) The best usage of waters classified as WS-IV shall be as a source of water supply for drinking, culinary, or food-processing purposes for those users where a more protective WS-I, WS-II or WS-III classification is not feasible as determined by the Commission in accordance with Rules .0212 through .0215 of this Section and any other best usage specified for Class C waters.
- (2) The best usage of waters classified as WS-IV shall be maintained as follows:
 - (a) Water quality standards in a WS-IV watershed shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-IV watershed shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-IV watershed shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations

- considered safe for drinking, culinary, or food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.
- (e) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
- (f) The Class WS-II or WS-III classifications may be used to protect portions of Class WS-IV water supplies. For reclassifications of these portions of WS-IV water supplies occurring after the July 1, 1992 statewide reclassification, a ~~WS-IV classification~~ more protective classification, such as a WS-II or WS-III, that is requested by local governments shall be considered by the Commission if all local governments having jurisdiction in the affected areas have adopted a resolution and the appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the Commission acts to protect a watershed when one or more local governments has failed to adopt protective measures as required by this Sub-Item.
- (3) Water quality standards applicable to Class WS-IV Waters shall be as follows:
- (a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
- (b) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause organoleptic effects in water supplies that cannot be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;
- (c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols shall be allowed. Specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
- (d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
- (e) Solids, total dissolved: not greater than 500 mg/l;
- (f) Toxic and other deleterious substances that are non-carcinogens:
- (i) Barium: 1.0 mg/l;
 - (ii) Chloride: 250 mg/l;
 - (iii) Nickel: 25 ug/l;
 - (iv) Nitrate nitrogen: 10.0 mg/l;
 - (v) 2,4-D: 70 ug/l;
 - (vi) 2,4,5-TP (Silvex): 10 ug/l; and
 - (vii) Sulfates: 250 mg/l;
- (g) Toxic and other deleterious substances that are carcinogens:
- (i) Aldrin: 0.05 ng/l;
 - (ii) Arsenic: 10 ug/l;
 - (iii) Benzene: 1.19 ug/l;
 - (iv) Carbon tetrachloride: 0.254 ug/l;
 - (v) Chlordane: 0.8 ng/l;
 - (vi) Chlorinated benzenes: 488 ug/l;
 - (vii) DDT: 0.2 ng/l;
 - (viii) Dieldrin: 0.05 ng/l;
 - (ix) Dioxin: 0.000005 ng/l;
 - (x) Heptachlor: 0.08 ng/l;
 - (xi) Hexachlorobutadiene: 0.44 ug/l;
 - (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
 - (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l;
 - (xiv) Tetrachloroethylene: 0.7 ug/l;
 - (xv) Trichloroethylene: 2.5 ug/l; ~~and~~
 - (xvi) Vinyl Chloride: 0.025 ~~ug/l~~ ug/l; and
 - (xvii) 1,4-Dioxane: 0.35 ug/l.
- (4) Wastewater and stormwater point source discharges in a WS-IV watershed shall meet the following requirements:
- (a) Discharges that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127 shall be allowed in the entire watershed.
- (b) Discharges from domestic facilities, industrial facilities and trout farms that are subject to Individual NPDES Permits shall be allowed in the entire watershed.
- (c) Stormwater discharges that qualify for an Individual NPDES Permit pursuant

to 15A NCAC 02H .0126 shall be allowed in the entire watershed.

- (d) No discharge of sewage, industrial wastes, or other wastes shall be allowed in the entire watershed except for those allowed by Sub-Items (a) through (c) of this Item or Rule .0104 of this Subchapter, and none shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, dischargers or industrial users subject to pretreatment standards shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water supplies. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.
- (e) New industrial discharges of treated wastewater in the critical area shall meet the provisions of Rule .0224(c)(2)(D), (E), and (G) of this Section and Rule .0203 of this Section.
- (f) New industrial connections and expansions to existing municipal discharges with a pretreatment program pursuant to 15A NCAC 02H .0904 shall be allowed in the entire watershed.
- (g) No new landfills shall be allowed in the Critical Area.
- (h) No new permitted sites for land application residuals or petroleum contaminated soils shall be allowed in the Critical Area.
- (5) Nonpoint source pollution in a WS-IV watershed shall meet the following requirements:
 - (a) Nonpoint source pollution shall not have an adverse impact on waters for use as a water supply or any other designated use.
 - (b) Class WS-IV waters shall be protected as water supplies that are located in watersheds that meet average watershed development density levels specified for Class WS-IV waters in Rule .0624 of this Subchapter.

15A NCAC 02B .0218 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-V WATERS

The following water quality standards shall apply to surface waters within water supply watersheds classified as WS-V. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also apply to Class WS-V waters.

- (1) The best usage of waters classified as WS-V shall be as waters that are protected as water supplies which are generally upstream and draining to Class WS-IV waters; waters previously used for drinking water supply purposes; or waters used by industry to supply their employees, but not municipalities or counties, with a raw drinking water supply source, although this type of use is not restricted to WS-V classification; and all Class C uses.
- (2) The best usage of waters classified as WS-V shall be maintained as follows:
 - (a) Water quality standards in a WS-V water shall meet the requirements as specified in Item (3) of this Rule.
 - (b) Wastewater and stormwater point source discharges in a WS-V water shall meet the requirements as specified in Item (4) of this Rule.
 - (c) Nonpoint source pollution in a WS-V water shall meet the requirements as specified in Item (5) of this Rule.
 - (d) Following approved treatment, as defined in Rule .0202 of this Section, the waters shall meet the Maximum Contaminant Level concentrations considered safe for drinking, culinary, or food-processing purposes that are specified in 40 CFR Part 141 National Primary Drinking Water Regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 18C .1500.
 - (e) The Commission or its designee may apply management requirements for the protection of waters downstream of receiving waters provided in Rule .0203 of this Section.
 - (f) The Commission shall consider a more protective classification for the water supply if a resolution requesting a more protective classification is submitted from all local governments having land use jurisdiction within the affected watershed.
 - (g) Sources of water pollution that preclude any of the best uses on either a short-term or long-term basis shall be deemed to violate a water quality standard;
- (3) Water quality standards applicable to Class WS-V Waters shall be as follows:

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

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| <p>(a) MBAS (Methylene-Blue Active Substances): not greater than 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;</p> <p>(b) Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause organoleptic effects in water supplies that can not be corrected by treatment, impair the palatability of fish, or have an adverse impact, as defined in 15A NCAC 02H .1002, on any best usage established for waters of this class;</p> <p>(c) Chlorinated phenolic compounds: not greater than 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols. Specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;</p> <p>(d) Total hardness: not greater than 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);</p> <p>(e) Solids, total dissolved: not greater than 500 mg/l;</p> <p>(f) Toxic and other deleterious substances that are non-carcinogens:</p> <ul style="list-style-type: none"> (i) Barium: 1.0 mg/l; (ii) Chloride: 250 mg/l; (iii) Nickel: 25 ug/l; (iv) Nitrate nitrogen: 10.0 mg/l; (v) 2,4-D: 70 ug/l; (vi) 2,4,5-TP (Silvex): 10 ug/l; and (vii) Sulfates: 250 mg/l; <p>(g) Toxic and other deleterious substances that are carcinogens:</p> <ul style="list-style-type: none"> (i) Aldrin: 0.05 ng/l; (ii) Arsenic: 10 ug/l; (iii) Benzene: 1.19 ug/l; (iv) Carbon tetrachloride: 0.254 ug/l; (v) Chlordane: 0.8 ng/l; (vi) Chlorinated benzenes: 488 ug/l; (vii) DDT: 0.2 ng/l; (viii) Dieldrin: 0.05 ng/l; (ix) Dioxin: 0.000005 ng/l; (x) Heptachlor: 0.08 ng/l; (xi) Hexachlorobutadiene: 0.44 ug/l; (xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l; | <ul style="list-style-type: none"> (xiii) Tetrachloroethane (1,1,2,2): 0.17 ug/l; (xiv) Tetrachloroethylene: 0.7 ug/l; (xv) Trichloroethylene: 2.5 ug/l; and (xvi) Vinyl Chloride: 0.025 ug/l <u>ug/l; and</u> (xvii) <u>1,4-Dioxane: 0.35 ug/l.</u> <p>(4) No discharge of sewage, industrial wastes, or other wastes shall be allowed that have an adverse effect on human health or that are not treated in accordance with the permit or other requirements established by the Division pursuant to G.S. 143-215.1. Upon request by the Commission, dischargers or industrial users subject to pretreatment standards shall disclose all chemical constituents present or potentially present in their wastes and chemicals that could be spilled or be present in runoff from their facility which may have an adverse impact on downstream water quality. These facilities may be required to have spill and treatment failure control plans as well as perform special monitoring for toxic substances.</p> <p>(5) Nonpoint Source pollution in a WS-V water shall not have an adverse impact on waters for use as water supply or any other designated use.</p> |
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Authority G.S. 143-214.1; 143-215.3(a)(1).

15A NCAC 02B .0219 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS B WATERS

The following water quality standards shall apply to surface waters that are for primary contact recreation as defined in Rule .0202 of this Section, and are classified as Class B waters. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class B waters.

- (1) The best usage of Class B waters shall be primary contact recreation and any other best usage specified for Class C waters.
- (2) Class B waters shall meet the standards of water quality for outdoor bathing places as specified in Item (3) of this Rule and shall be of sufficient size and depth for primary contact recreation. In assigning the B classification to waters intended for primary contact recreation, the Commission shall consider the relative proximity of sources of water pollution and the potential hazards involved in locating swimming areas close to sources of water pollution and shall not assign this classification to waters in which such water pollution could result in a hazard to public health. Sources of water pollution that preclude any of these uses on either a short-term or long-term basis shall be deemed to violate a water quality standard.
- (3) Quality standards applicable to Class B waters:

- (a) Sewage, industrial wastes, or other wastes: none shall be allowed that are not treated to the satisfaction of the Commission. In determining the degree of treatment required for such waste when discharged into waters to be used for bathing, the Commission shall consider the quality and quantity of the sewage and wastes involved and the proximity of such discharges to waters in this class. Discharges in the immediate vicinity of bathing areas shall not be allowed if the Director determines that the waste cannot be treated to ensure the protection of primary contact recreation;
- (b) Fecal coliforms shall not exceed a geometric mean of 200/100 ml (MF count) based on at least five samples taken over a 30 day period, nor exceed 400/100 ml in more than 20 percent of the samples examined during such ~~period.~~ period.
- (c) For the counties listed in this Sub-Item, Escherichia coli (E. coli) shall be used as the bacterial indicator in lieu of Sub-Item (b) of this Item. E. coli shall not exceed a geometric mean of 100 colony forming units (cfu) per 100 ml (MF count) or a most probable number value (MPN) of 100 per 100 ml based upon a minimum of five samples taken over a 30 day period, and E. coli shall not exceed 320 cfu/100 ml or 320 MPN/100 ml in more than 20 percent of the samples examined during the same 30-day period. The counties subject to this site-specific standard are:
 - (i) Avery;
 - (ii) Buncombe;
 - (iii) Burke;
 - (iv) Caldwell;
 - (v) Cherokee;
 - (vi) Clay;
 - (vii) Graham;
 - (viii) Haywood;
 - (ix) Henderson;
 - (x) Jackson;
 - (xi) Macon;
 - (xii) Madison;
 - (xiii) McDowell;
 - (xiv) Mitchell;
 - (xv) Polk;
 - (xvi) Rutherford;
 - (xvii) Swain;
 - (xviii) Transylvania; and
 - (xix) Yancey.

- (4) Wastewater discharges to waters classified as B shall meet the reliability requirements specified in 15A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is determined by the Director to be attainable shall be required to meet water quality standards and reliability requirements to protect this use concurrently with reclassification efforts.

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

15A NCAC 02B .0220 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SC WATERS

In addition to the standards set forth in Rule .0208 of this Section, the following water quality standards shall apply to all Class SC waters. Additional standards applicable to other tidal salt water classifications are specified in Rules .0221 and .0222 of this Section.

- (1) The best usage of waters classified as SC shall be aquatic life propagation, survival, and maintenance of biological integrity (including fishing, fish, and Primary Nursery Areas (PNAs)); wildlife; secondary contact recreation as defined in Rule .0202 in this Section; and any usage except primary contact recreation or shellfishing for market purposes. All saltwaters shall be classified to protect these uses at a minimum.
- (2) The best usage of waters classified as SC shall be maintained as specified in this Rule. Any source of water pollution that precludes any of these uses on either a short-term or a long-term basis shall be deemed to violate a water quality standard;
- (3) Chlorophyll a (corrected): not greater than 40 ug/l in sounds, estuaries, and other waters subject to growths of macroscopic or microscopic vegetation. The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the Director determines that the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;
- (4) Cyanide: 1 ug/l;
- (5) Dissolved oxygen: not less than 5.0 mg/l, except that swamp waters, poorly flushed tidally influenced streams or embayments, or estuarine bottom waters may have lower values if caused by natural conditions;
- (6) Enterococcus, including Enterococcus faecalis, Enterococcus faecium, Enterococcus avium and Enterococcus gallinarum: not exceed a geometric mean of 35 enterococci per 100 ml based upon a minimum of five samples taken over a 30-day period. For the purposes of beach monitoring and notification, "Coastal

- Recreational Waters Monitoring, Evaluation and Notification" regulations (15A NCAC 18A .3400), available free of charge at: <http://www.ncoah.com/>, are incorporated by reference including subsequent amendments and editions;
- (7) Floating solids, settleable solids, or sludge deposits: only such amounts attributable to sewage, industrial wastes, or other wastes as shall not make the waters unsafe or unsuitable for aquatic life and wildlife, or impair the waters for any designated uses;
- (8) Gases, total dissolved: not greater than 110 percent of saturation;
- (9) Metals:
- (a) With the exception of mercury and selenium, acute and chronic tidal salt water quality standards for metals shall be based upon measurement of the dissolved fraction of the metals. Mercury and selenium shall be based upon measurement of the total recoverable metal;
- (b) With the exception of mercury and selenium, acute and chronic tidal saltwater quality aquatic life standards for metals listed in this Sub-Item shall apply as a function of the pollutant's water effect ratio (WER). The WER shall be assigned a value equal to one unless any person demonstrates to the Division in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002). Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commission that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure."
- (c) Acute and chronic tidal salt water quality metals standards shall be as follows:
- (i) Arsenic, acute: WER· 69 ug/l;
- (ii) Arsenic, chronic: WER· 36 ug/l;
- (iii) Cadmium, acute: WER· ~~40~~ 33 ug/l;
- (iv) Cadmium, chronic: WER· ~~8.8~~ 7.9 ug/l;
- (v) Chromium VI, acute: WER· 1100 ug/l;
- (vi) Chromium VI, chronic: WER· 50 ug/l;
- (vii) Copper, acute: WER· 4.8 ug/l;
- (viii) Copper, chronic: WER· 3.1 ug/l;
- (ix) Lead, acute: WER· 210 ug/l;
- (x) Lead, chronic: WER· 8.1 ug/l;
- (xi) Mercury, total recoverable, chronic: 0.025 ug/l;
- (xii) Nickel, acute: WER· 74 ug/l;
- (xiii) Nickel, chronic: WER· 8.2 ug/l;
- (xiv) Selenium, total recoverable, chronic: 71 ug/l;
- (xv) Silver, acute: WER· 1.9 ug/l;
- (xvi) Silver, chronic: WER· 0.1 ug/l;
- (xvii) Zinc, acute: WER· 90 ug/l; and
- (xviii) Zinc, chronic: WER· 81 ug/l;
- (d) Compliance with acute instream metals standards shall only be evaluated using an average of two or more samples collected within one hour. Compliance with chronic instream metals standards shall only be evaluated using averages of a minimum of four samples taken on consecutive days, or as a 96-hour average;
- (10) Oils, deleterious substances, or colored or other wastes: only such amounts as shall not render the waters injurious to public health, secondary recreation, aquatic life, and wildlife or adversely affect the palatability of fish, aesthetic quality, or impair the waters for any designated uses. For the purpose of implementing this Rule, oils, deleterious substances, or colored or other wastes shall include substances that cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines, as described in 40 CFR 110.3, incorporated by reference including any subsequent amendments and editions. This material is available free of charge at <https://www.govinfo.gov>.
- (11) Pesticides:
- (a) Aldrin: 0.003 ug/l;
- (b) Chlordane: 0.004 ug/l;
- (c) DDT: 0.001 ug/l;
- (d) Demeton: 0.1 ug/l;
- (e) Dieldrin: 0.002 ug/l;
- (f) Endosulfan: 0.009 ug/l;
- (g) Endrin: 0.002 ug/l;
- (h) Guthion: 0.01 ug/l;
- (i) Heptachlor: 0.004 ug/l;
- (j) Lindane: 0.004 ug/l;

- (k) Methoxychlor: 0.03 ug/l;
- (l) Mirex: 0.001 ug/l;
- (m) Parathion: 0.178 ug/l; and
- (n) Toxaphene: 0.0002 ug/l;
- (12) pH: shall be between 6.8 and 8.5, except that swamp waters may have a pH as low as 4.3 if it is the result of natural conditions;
- (13) Phenolic compounds: only such levels as shall not result in fish-flesh tainting or impairment of other best usage;
- (14) Polychlorinated biphenyls: (total of all PCBs and congeners identified) 0.001 ug/l;
- (15) Radioactive substances, based on at least one sample collected per quarter:
 - (a) Combined radium-226 and radium-228: the average annual activity level for combined radium-226, and radium-228 shall not exceed five picoCuries per liter;
 - (b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but excluding radon and uranium) shall not exceed 15 picoCuries per liter;
 - (c) Beta Emitters: the average annual activity level for strontium-90 shall not exceed eight picoCuries per liter, nor shall the average annual gross beta particle activity (excluding potassium-40 and other naturally occurring radionuclides exceed 50 picoCuries per liter, nor shall the average annual activity level for tritium exceed 20,000 picoCuries per liter;
- (16) Salinity: changes in salinity due to hydrological modifications shall not result in removal of the functions of a PNA. Projects that are determined by the Director to result in modifications of salinity such that functions of a PNA are impaired shall employ water management practices to mitigate salinity impacts;
- (17) Temperature: shall not be increased above the natural water temperature by more than 0.8 degrees C (1.44 degrees F) during the months of June, July, and August, shall not be increased by more than 2.2 degrees C (3.96 degrees F) during other months, and shall in no case exceed 32 degrees C (89.6 degrees F) due to the discharge of heated liquids;
- (18) Trialkyltin compounds: 0.007 ug/l expressed as tributyltin;
- (19) Turbidity: the turbidity in the receiving water shall not exceed 25 Nephelometric Turbidity Units (NTU); if turbidity exceeds this level due to natural background conditions, the existing turbidity level shall not be increased. Compliance with this turbidity standard shall be

deemed met when land management activities employ Best Management Practices (BMPs), defined by Rule .0202 of this Section, recommended by the Designated Nonpoint Source Agency, as defined by Rule .0202 of this Section.

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

SECTION .0300 - ASSIGNMENT OF STREAM CLASSIFICATIONS

15A NCAC 02B .0301 CLASSIFICATIONS: GENERAL

(a) The classifications assigned to the waters of the State of North Carolina are set forth in river basin classification schedules provided at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification> and in Rules .0302 to .0317 of this Section. These classifications are based upon procedures described in Rule .0101 of this Subchapter.

(b) Classifications. The classifications assigned to the waters of North Carolina are denoted by the letters C, B, WS-I, WS-II, WS-III, WS-IV, WS-V, WL, SC, SB, SA, SWL, Tr, Sw, NSW, ORW, HQW, and UWL. The "best usage", as defined in Rule .0202 of this Subchapter, for each classification is defined in the rules as follows:

- (1) Fresh Waters Classifications:
 - (A) Class C: Rule .0211 of this Subchapter;
 - (B) Class B: Rule .0219 of this Subchapter;
 - (C) Class WS-I (Water Supply): Rule .0212 of this Subchapter;
 - (D) Class WS-II (Water Supply): Rule .0214 of this Subchapter;
 - (E) Class WS-III (Water Supply): Rule .0215 of this Subchapter;
 - (F) Class WS-IV (Water Supply): Rule .0216 of this Subchapter;
 - (G) Class WS-V (Water Supply): Rule .0218 of this Subchapter; and
 - (H) Class WL (Wetlands): Rule .0231 of this Subchapter.
- (2) Tidal Salt Waters Classifications:
 - (A) Class SC: Rule .0220 of this Subchapter;
 - (B) Class SB: Rule .0222 of this Subchapter;
 - (C) Class SA: Rule .0221 of this Subchapter; and
 - (D) Class SWL: Rule .0231 of this Subchapter.
- (3) Supplemental Classifications:
 - (A) Class Tr (Trout Waters): Rule .0202 of this Subchapter;
 - (B) Class Sw (Swamp): Rule .0202 of this Subchapter;

- (C) Class NSW (Nutrient Sensitive Waters): Rule .0223 of this Subchapter;
- (D) Class ORW (Outstanding Resource Waters): Rule .0225 of this Subchapter;
- (E) Class HQW (High Quality Waters): Rule .0224 of this Subchapter; and
- (F) Class UWL (Unique Wetlands): Rule .0231 of this Subchapter.

(c) Water Quality Standards. The water quality standards applicable to each classification assigned are those established in the rules of Section .0200 of this Subchapter.

(d) Index Number. The index number is an identification number assigned to each stream or segment of a stream, indicating the specific tributary progression between the main stem stream and tributary stream. The index number can be referenced to the Division's river basin classification schedules (hydrologic and alphabetic) for each river basin.

(e) Classification Date. The classification date indicates the date on which enforcement of the provisions of General Statutes 143-215.1 became effective with reference to the classification assigned to the various streams in North Carolina.

(f) Unnamed Streams.

- (1) Any stream that is not listed in a river basin classification schedule carries the same classification as that assigned to the stream segment to which it is tributary except:
 - (A) unnamed freshwaters tributary to tidal saltwaters will be classified "C"; or
 - (B) after November 1, 1986, any areas of tidal saltwater created by dredging projects approved in accordance with 15A NCAC 07H .0208 and connected to Class SA waters shall be classified "SC" unless case-by-case reclassification proceedings are conducted per Rule .0101 of this Subchapter.
- (2) In addition to Subparagraph ~~(f)(1)~~(1) of this ~~Rule, Paragraph~~, for unnamed streams entering other ~~states~~ states, tribes approved for treatment as a state and administering a U.S. Environmental Protection Agency approved water quality standards program, or for specific areas of a river basin, the following Rules shall apply:
 - (A) Hiwassee River Basin (Rule .0302 of this Section);
 - (B) Little Tennessee River Basin and Savannah River Drainage Area (Rule .0303 of this Section);
 - (C) French Broad River Basin (Rule .0304 of this Section);
 - (D) Watauga River Basin (Rule .0305 of this Section);
 - (E) Broad River Basin (Rule .0306 of this Section);

- (F) New River Basin (Rule .0307 of this Section);
- (G) Catawba River Basin (Rule .0308 of this Section);
- (H) Yadkin-Pee Dee River Basin (Rule .0309 of this Section);
- (I) Lumber River Basin (Rule .0310 of this Section);
- (J) Roanoke River Basin (Rule .0313 of this Section);
- (K) Tar-Pamlico River Basin (Rule .0316 of this Section); and
- (L) Pasquotank River Basin (Rule .0317 of this Section).

Authority G.S. 143-214.1; 143-214.5; 143-215.1; 143-215.3(a)(1).

15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

(a) Classifications assigned to the waters within the Cape Fear River Basin are set forth in the Cape Fear River Basin Classification Schedule, which may be inspected at the following places:

- (1) the Internet at <https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification>; and
- (2) the following offices of the North Carolina Department of Environmental Quality:
 - (A) Winston-Salem Regional Office
450 West Hanes Mill Road
Winston-Salem, North Carolina;
 - (B) Fayetteville Regional Office
225 Green Street
Systel Building Suite 714
Fayetteville, North Carolina;
 - (C) Raleigh Regional Office
3800 Barrett Drive
Raleigh, North Carolina;
 - (D) Washington Regional Office
943 Washington Square Mall
Washington, North Carolina;
 - (E) Wilmington Regional Office
127 Cardinal Drive Extension
Wilmington, North Carolina; and
 - (F) Division of Water Resources
Central Office
512 North Salisbury Street
Raleigh, North Carolina.

(b) The Cape Fear River Basin Classification Schedule was amended effective:

- (1) March 1, 1977;
- (2) December 13, 1979;
- (3) December 14, 1980;
- (4) August 9, 1981;
- (5) April 1, 1982;
- (6) December 1, 1983;
- (7) January 1, 1985;
- (8) August 1, 1985;

- (9) December 1, 1985;
 - (10) February 1, 1986;
 - (11) July 1, 1987;
 - (12) October 1, 1987;
 - (13) March 1, 1988;
 - (14) August 1, 1990.
- (c) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1988 as follows:
- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
 - (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.
- (d) The Cape Fear River Basin Classification Schedule was amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.
- (e) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows:
- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
 - (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
 - (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
- (f) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.

- (g) The Cape Fear River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.
- (h) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1994 as follows:
- (1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
 - (2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.
 - (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.
- (i) The Cape Fear River Basin Classification Schedule was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.
- (j) The Cape Fear River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.
- (k) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.
- (l) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rule .0248 of this Subchapter.
- (m) The Cape Fear River Basin Classification Schedule was amended effective August 1, 2002 as follows:

- (1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.
 - (2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.
 - (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
 - (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
 - (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL.
 - (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL.
 - (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL.
- (p) The Cape Fear River Basin Classification Schedule was amended effective January 1, 2009 as follows:

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule .0215(3)(b)(i)(E) of this Subchapter, then that development is not subject to the stormwater requirements as described in 15A NCAC 02H .1006.

(n) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2004 as follows:

- (1) the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of Siler City upper reservoir dam to a point 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (1) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
- (2) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from a point 0.5 miles upstream of Smithfield Packing Company's intake to a point 1 mile upstream of Grays Creek from Class C to Class WS-IV.

(o) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class WL UWL.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (q) The Cape Fear River Basin Classification Schedule was amended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at B. Everett Jordan Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within the B. Everett Jordan Reservoir Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rules .0262 through .0273 of this Subchapter.
- (r) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S. 15/501, to a point 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV CA.
- (s) The Cape Fear River Basin Classification Schedule was amended effective March 1, 2012 with the reclassification of the portion of the Haw River [Index No. 16-(1)] from the City of Greensboro's intake, located approximately 650 feet upstream of Guilford County 2712, to a point 0.5 miles upstream of the intake from Class WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw River [Index No. 16-(1)] from a point 0.5 miles upstream of the intake to a point 0.6 miles downstream of U.S. Route 29 from Class WS-V NSW to Class WS-IV NSW.
- (t) The Cape Fear River Basin Classification Schedule was amended effective June 30, 2017 with the reclassification of a section of 18-(71) from upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows Cut from Class SC to Class SC Sw. A site-specific management strategy is outlined in 15A NCAC 02B .0227.
- (u) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2019 with the reclassification of a portion of Sandy Creek [Index No. 17-16-(1)] (including

tributaries) from a point 0.4 mile upstream of SR-2481 to a point 0.6 mile upstream of N.C. Hwy 22 from WS-III to WS-III CA. The reclassification resulted in an updated representation of the water supply watershed for the Sandy Creek reservoir.

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

Notice is hereby given in accordance with G.S. 150B-21.2 and G.S. 150B-21.3A(c)(2)g. that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10F .0317, .0327, .0329, readopt with substantive changes the rules cited as 15A NCAC 10C .0315; 10I .0103-.0105, and readopt without substantive changes the rules cited as 15A NCAC 10C .0302, .0307, .0309-.0312, .0317, .0319, .0320, .0501-.0503, and .0601-.0603.

Pursuant to G.S. 150B-21.2(c)(1), the text of the rule(s) proposed for readoption without substantive changes are not required to be published. The text of the rules are available on the OAH website: http://reports.oah.state.nc.us/ncac.asp.

Link to agency website pursuant to G.S. 150B-19.1(c): https://www.ncwildlife.org/Proposed-Regulations

Proposed Effective Date: September 1, 2021

Public Hearing:

Date: June 7, 2021

Time: 2:00 p.m.

Location: 10F Rules - Register online here:

https://ncwildlife-org.zoomgov.com/webinar/register/WN_acrgv_qBTEWKZldCke0lsA Join by phone toll free (888-788-0099 or 877-853-5247) using Webinar ID: 161 266 7187

Date: June 9, 2021

Time: 2:00 PM

Location: 10C Rules - Register online here:

https://ncwildlife-org.zoomgov.com/webinar/register/WN_FwROKUUYQr-iEh6tQNJeIw Join by phone toll free (888-788-0099 or 877-853-5247) using Webinar ID: 160 845 1127

Date: June 2, 2021

Time: 2:00 PM

Location: 10I Rules - Register online here:

https://ncwildlife-org.zoomgov.com/webinar/register/WN_f0ZX3M7-Qm-rjY9unppijg Join by phone toll free (888-788-0099 or 877-853-5247) using Webinar ID: 160 898 5231

Reason for Proposed Action: Pursuant to 150B-21.3A, the agency is required to readopt 10C and 10I rules as part of the periodic review process. Changes to the 10F rules were requested by counties for no wake zones to enhance public safety.

Comments may be submitted to: Rulemaking Coordinator, 1701 Mail Service Center, Raleigh, NC 27699; email regulations@ncwildlife.org

Comment period ends: July 16, 2021

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 (>= \$1,000,000)
Approved by OSBM
No fiscal note required

CHAPTER 10 - WILDLIFE RESOURCES AND WATER SAFETY

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0300 - GAME FISH

15A NCAC 10C .0302 MANNER OF TAKING INLAND GAME FISHES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0307 FLOUNDER, SEA TROUT, AND RED DRUM (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0309 MUSKELLUNGE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0310 PICKEREL (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0311 ROANOKE AND ROCK BASS (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0312 SAUGER (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0315 SUNFISH

(a) For purposes of this Rule, Sunfish include bluegill, redbreast, redbreast, pumpkinseed, warmouth, flier and all other species of the sunfish family (Centrarchidae) not specified in 15A NCAC 10C .0305, 15A NCAC 10C .0306 and 15A NCAC 10C ~~.0311, .0321, .0322, .0323.~~

(b) There is no daily creel limit for Sunfish, except for waters identified in Paragraph ~~(c)~~(e) of this Rule. ~~There is no minimum size limit for these fish. There is no closed season.~~

~~(c) There is no minimum size limit.~~

~~(d) There is no closed season.~~

~~(e)~~(e) In the following waters and all their tributaries, the daily creel limit for Sunfish is 30 in the aggregate, no more than 12 of which may be Redbreast Sunfish:

- (1) Roanoke River downstream of Roanoke Rapids Dam;
- (2) Tar River downstream of Tar River Reservoir Dam;
- (3) Neuse River downstream of Falls Lake Dam;
- (4) Haw River downstream of Jordan Lake Dam;
- (5) Deep River downstream of Lockville Dam;
- (6) Cape Fear River;
- (7) Waccamaw River downstream of Lake Waccamaw Dam;
- (8) Lumber River including Drowning Creek; and
- (9) all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County.

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

15A NCAC 10C .0317 WALLEYE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0319 WHITE PERCH (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0320 YELLOW PERCH (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0500 – PRIMARY NURSERY AREAS

15A NCAC 10C .0501 SCOPE AND PURPOSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0502 PRIMARY NURSERY AREAS DEFINED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0503 DESCRIPTIVE BOUNDARIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SECTION .0600 - ANADROMOUS FISH SPAWNING AREAS

15A NCAC 10C .0601 SCOPE AND PURPOSE (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0602 ANADROMOUS FISH SPAWNING AREAS DEFINED (READOPTION WITHOUT SUBSTANTIVE CHANGES)

15A NCAC 10C .0603 DESCRIPTIVE BOUNDARIES (READOPTION WITHOUT SUBSTANTIVE CHANGES)

SUBCHAPTER 10F - MOTORBOATS AND WATER SAFETY

SECTION .0300 - LOCAL WATER SAFETY REGULATIONS

15A NCAC 10F .0317 STANLY COUNTY

(a) Regulated Areas. This Rule shall apply to the following waters described as follows:

- (1) ~~Badin Lake; and Lake, within 50 yards northeast and southwest of the section of railroad trestle designed for vessel traffic, northwest of the Old Whitney Boating Access Area near the Stanly-Montgomery County line.~~
Lake Tillery.
 - (A) Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W; and
 - (B) The waters within 50 yards of the fuel docks at the Boathouse and Marina at 712 Berry Hill Drive in Norwood.

(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 while on the waters of a regulated area described in Paragraph (a) of this Rule.

(c) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of a regulated area described in Paragraph (a) of this Rule.

(d) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any of the regulated area described in Paragraph (a) of this Rule.

(e) Placement of Markers. The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of the markers implementing Subparagraph (a)(1) of this Rule. The Board of Commissioners of Stanly County shall be the designated agency for placement of markers implementing Parts (a)(2)(A) and (B) of this Rule.

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

15A NCAC 10F .0327 MONTGOMERY COUNTY

(a) Regulated Areas. This Rule shall apply to the waters and portions of waters described as follows:

- (1) Badin Lake.
 - (A) the cove west of Lakeshore Drive and east of Strand Drive, southeast of a line at the mouth of the cove from a point on the east shore at 35.49242 N, 80.09241 W to a point on the west shore at 35.49242 N, 80.09241 W;

- (B) Lake Forest Drive Cove shore to shore, west of a point 50 yards east of the fueling site at the marina at 35.48739 N, 80.10918 W;
- (C) Garr Creek shore to shore, north of a line beginning at a point on the east shore at 35.47952 N, 80.13633 W to a point on the west shore at 35.47946 N, 80.13932 W; and
- (D) the channel between Beyer's Island and the mainland, shore to shore beginning at a line from a point on Beyer's Island at 35.49102 N, 80.10221 W to a point on the mainland at 35.49230 N, 80.10241 W, ending at a line westward, from a point on Beyer's Island at 35.48988 N, 80.10573 W to a point on the mainland at ~~35.49077 N, 80.10702 W~~; 35.49077 N, 80.10702 W; and
- (E) within 50 yards of the fueling station at the Old North State Marina at the entrance to a cove within the Uwharrie Point community.

(2) Lake Tillery.

- (A) the waters within 50 yards of the boat ramp in the south end of Woodrun Cove at 35.33113 N, 80.06277 W;
- (B) Carolina Forest Cove shore to shore and the waters within 50 yards of the boat ramps and boat slips at the end of Arroyo Drive in Carolina Forest Community, from a point on the south shore at 35.36276 N, 80.05386 W, northeast to a point on the north shore at 35.36405 N, 80.05304 W; and
- (C) Lilly's Bridge Boating Access Area shore to shore, from line 25 feet north of the SR 1110 bridge otherwise known as Lillys Bridge Road at a point on the east shore at 35.23223 N, 80.06166 W, to a point on the west shore at 35.23289 N, 80.06318 W, to a line 200 feet southwest of the Lilly's Bridge Boating Access Area, from a point on the east shore at 35.23067 N; 80.06262 W, to a point on the west shore at 35.23156 N; 80.06437 W.

(3) Tuckertown Reservoir.

- (b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters of the regulated areas described in Paragraph (a) of this Rule.
- (c) Speed Limit. No person shall operate a vessel at greater than no-wake speed within any regulated area described in Paragraph (a) of this Rule.
- (d) Badin Lake Swimming Area. No person operating or responsible for the operation of a vessel shall permit it to enter the

marked swimming area on Badin Lake at the Pinehaven Village beach area at 370 Pinehaven Drive in New London, within 50 feet of the shoreline between points at 35.49927 N, 80.11428 W; and 35.49934 N, 80.11437 W.

(e) Placement of Markers. The Board of Commissioners of Montgomery County shall be the designated agency for placement of the markers implementing Parts (a)(1)(A), (B), (C), (D), (E), (2)(A) and (B), and Subparagraph (a)(3) of this Rule. The North Carolina Wildlife Resources Commission is the designated agency for placement and maintenance of the markers implementing Part (a)(2)(C) of this Rule. The Board of Commissioners of Montgomery County shall be the designated agency for placement and maintenance of the ropes and markers implementing Paragraph (d) of this Rule.

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

15A NCAC 10F .0329 ROWAN COUNTY

(a) Regulated Areas. This Rule shall apply to the portions of High Rock Lake and Tuckertown Lake within Rowan County.

(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 while on the waters of the regulated areas described in Paragraph (a) of this Rule.

(c) Speed Limit in Mooring Areas. No person shall operate a vessel at greater than no-wake speed while within a marked mooring area on the regulated areas described in Paragraph (a) of this Rule.

(d) Speed Limit in Specific Zones. No person shall operate a vessel at greater than no-wake speed in the following locations on the regulated areas described in Paragraph (a) of this Rule:

- (1) the waters within 50 yards of the Tamarac Shores Marina on Second Creek on High Rock Lake, ~~located at 35.61012 N, 80.30795 W; Lake extending northeast of the marina 50 yards from the shoreline to a point at 35.61097 N, 60.30647 W, and including the waters of the cove north of the marina;~~
- (2) the cove on the north side of Second Creek east of SR 2138 otherwise known as Poole Road on High Rock Lake, shore to shore, north of a line from a point on the east shore at 35.60800 N, 80.31985 W to a point on the west shore at 35.60741 N, 80.32106 W;
- (3) the waters within 50 yards southeast and 50 yards northwest of the I-85 bridge over High Rock Lake, from a point southeast of the bridge at 35.71930 N, 80.38873 W, to a point northwest of the bridge at ~~35.72012 N, 80.39903 W;~~ 35.72012 N, 80.3990 W;
- (4) the waters within 50 yards southeast and 50 yards northwest of the SR 2168 bridge otherwise known as the Goodman Lake Road bridge at Crane Creek on High Rock Lake, from a point southeast of the bridge at 35.55354 N, 80.35344 W, to a point northwest of the bridge at 35.66406 N, 80.35435 W;
- (5) the waters within 50 yards northeast and 50 yards southwest of the SR 1002 bridge

otherwise known as the Bringle Ferry Road bridge at Second Creek on High Rock Lake, from a point northeast of the bridge at 35.60916 N, 80.30626 W, to a point southwest of the bridge at 35.60840 N, 80.30693 W;

- (6) the waters within 50 yards north and 50 yards south of SR 1004 bridge otherwise known as the Stokes Ferry Road bridge at Riles Creek on Tuckertown Lake, from a point north of the bridge at 35.50535 N, 80.21680 W, to a point south of the bridge at 35.50452 N, 80.21720 W;
- (7) the waters within 50 yards northwest and 50 yards southeast of the N. C. Highway 8-49 bridge at Tuckertown Lake from a point northwest of the bridge at 35.50642 N, 80.18430 W, to a point southeast of the bridge at 35.50538 N, 80.18372 W; and
- (8) the waters within 50 yards of the Rowan Shrine Club dock located at 35.66776 N, 80.31425 W on High Rock Lake.

(e) Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked public swimming area on the waters of the regulated areas described in Paragraph (a) of this Rule.

(f) Placement of Markers. The Board of Commissioners of Rowan County shall be the designated agency for placement of markers implementing this Rule.

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

SUBCHAPTER 10I - ENDANGERED AND THREATENED SPECIES

SECTION .0100 - ENDANGERED AND THREATENED SPECIES

15A NCAC 10I .0103 ENDANGERED SPECIES LISTED

(a) The following species of resident wildlife shall be designated as federally-listed endangered species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds:
 - (A) Bachman's warbler (*Vermivora bachmanii*);
 - (B) Ivory-billed woodpecker (*Campephilus principalis*);
 - ~~(C) Kirtland's warbler (*Setophaga kirtlandii*);~~
 - ~~(D)~~(C) Piping plover (*Charadrius melodus circumcinctus*);
 - ~~(E)~~(D) Red-cockaded woodpecker (~~*Picoides*~~ (*Dryobates borealis*); and
 - ~~(F)~~(E) Roseate tern (*Sterna dougallii dougallii*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Cape Fear shiner (*Notropis mekistocholas*);
 - (B) Roanoke logperch (*Percina rex*);

- (C) Shortnose sturgeon (*Acipenser brevirostrum*), when found in inland fishing waters as defined in G.S. 113-291(9)a. and (9)b.; and
- (D) Atlantic sturgeon (*Acipenser oxyrinchus oxyrinchus*), when found in inland fishing waters.

(5) Mammals:

- (A) Carolina northern flying squirrel (*Glaucomys sabrinus coloratus*);
- (B) Eastern cougar (*Puma concolor*);
- (C) Gray bat (*Myotis grisescens*);
- (D) Indiana bat (*Myotis sodalis*);
- (E) Manatee (*Trichechus manatus*), when found in inland fishing waters; and
- (F) Virginia big-eared bat (*Corynorhinus townsendii virginianus*).

(6) Mollusks:

- (A) Appalachian elktoe (*Alasmidonta raveneliana*);
- (B) Carolina heelsplitter (*Lasmigona decorata*);
- (C) Dwarf wedgemussel (*Alasmidonta heterodon*);
- (D) James spinymussel (~~*Pleurobema*~~ (*Parvaspina collina*);
- (E) Littlewing pearlymussel (*Pegias fabula*);
- (F) Tan riffleshell (*Epioblasma florentina walkeri*); and
- (G) Tar River spinymussel (~~*Elliptio*~~ (*Parvaspina steinstansana*).

(7) Reptiles:

- (A) Kemp's ridley seaturtle (*Lepidochelys kempii*);
- (B) Atlantic hawksbill seaturtle (*Eretmochelys imbricata imbricata*); and
- (C) Leatherback seaturtle (*Dermochelys coriacea*).

(b) The following species of resident wildlife shall be designated as state-listed endangered species:

- (1) Amphibians:
 - (A) Gopher frog (*Rana [=Lithobates] capito*);
 - (B) Hickory Nut Gorge green salamander (*Aneides carvanesis*);
 - ~~(B)~~(C) Ornate chorus frog (*Pseudacris ornata*); and
 - ~~(C)~~(D) River frog (*Rana [=Lithobates] heckscheri*).
- (2) Birds:
 - (A) American peregrine falcon (*Falco peregrinus anatum*);
 - (B) Bewick's wren (*Thryomanes bewickii*);
 - (C) Common tern (*Sterna hirundo*);
 - (D) Henslow's sparrow (~~*Ammodramus*~~ (*Centronyx henslowii*); and

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- (E) Wayne's black-throated green warbler (*Setophaga virens waynei*).
- (3) Crustacea: ~~Bennett's Mill cave water slater (*Caecidotea carolinensis*)~~;
 - (A) Bennett's Mill cave water slater (*Caecidotea carolinensis*); and
 - (B) Waccamaw crayfish (*Procambarus braswelli*).
- (4) Fish:
 - (A) Blotchside logperch (*Percina burtoni*);
 - (B) Bridle shiner (*Notropis bifrenatus*);
 - ~~(C) Dusky darter (*Percina sciera*);~~
 - ~~(D)~~(C) Orangefin madtom (*Noturus gilberti*);
 - ~~(E)~~(D) Paddlefish (*Polyodon spathula*);
 - ~~(F)~~(E) Robust redhorse (*Moxostoma robustum*);
 - ~~(G)~~(F) Rustyside sucker (*Thoburnia hamiltoni*);
 - ~~(H)~~(G) Sharpnose darter (*Percina oxyrhynchus*); and
 - ~~(I)~~(H) Stonecat (*Noturus flavus*).
- (5) Mammals: None Listed At This Time.
- (6) Mollusks:
 - (A) Atlantic pigtoe (*Fusconaia masoni*);
 - (B) Barrel floater (~~*Anodonta*~~ *Utterbackiana couperiana*);
 - (C) Brook floater (*Alasmidonta varicosa*);
 - (D) Carolina creekshell (*Villosa vaughaniana*);
 - (E) Fragile glyph (*Glyphyalinia clingmani*);
 - (F) Green floater (*Lasmigona subviridis*);
 - (G) Greenfield rams-horn (*Helisoma eucosmium*);
 - (H) Knotty elimia (*Elimia christyi*);
 - (I) Longsolid (*Fusconaia subrotunda*);
 - (J) Magnificent rams-horn (*Planorbella magnifica*);
 - (K) Purple wartyback (*Cyclonaias tuberculata*);
 - (L) Savannah lilliput (*Toxolasma pullus*);
 - (M) Slippershell mussel (*Alasmidonta viridis*);
 - (N) Tennessee clubshell (*Pleurobema oviforme*);
 - (O) Tennessee heelsplitter (*Lasmigona holstonia*);
 - (P) Tennessee pigtoe (~~*Fusconaia*~~ *Pleuronaia barnesiana*); and
 - (Q) Yellow lampmussel (*Lampsilis cariosa*); *cariosa*. and
 - ~~(R) Yellow lance (*Elliptio lanceolata*)~~.
- (7) Reptiles:
 - (A) Eastern coral snake (*Micrurus fulvius fulvius*); and
 - (B) Eastern diamondback rattlesnake (~~*Crotalus adamanteus*~~; *adamanteus*; and

(C) Mimic glass lizard (*Ophisaurus mimicus*).

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

15A NCAC 101 .0104 THREATENED SPECIES LISTED

(a) The following species of resident wildlife shall be designated as federally-listed threatened species:

- (1) Amphibians: None Listed At This Time.
- (2) Birds:
 - (A) Eastern black rail (*Laterallus jamaicensis jamaicensis*);
 - ~~(A)~~(B) Piping plover (*Charadrius melodus melodus*);
 - ~~(B)~~(C) Red knot (*Calidris canutus rufa*); and
 - ~~(C)~~(D) Wood stork (*Mycteria americana*).
- (3) Crustacea: None Listed At This Time.
- (4) Fish:
 - (A) Spotfin chub (*Erimonax monachus*); and
 - (B) Waccamaw silverside (*Menidia extensa*).
- (5) Mammals: Northern long-eared bat (*Myotis septentrionalis*)
- (6) Mollusks: ~~Noonday globe (*Patera clarki nantahala*)~~;
 - (A) Noonday globe (*Patera clarki nantahala*); and
 - (B) Yellow lance (*Elliptio lanceolata*).
- (7) Reptiles:
 - (A) Bog turtle (*Glyptemys muhlenbergii*);
 - (B) American alligator (*Alligator mississippiensis*);
 - (C) Green sea turtle (*Chelonia mydas*); and
 - (D) Loggerhead sea turtle (*Caretta caretta*).

(b) The following species of resident wildlife are designated as state-listed threatened species:

- (1) Amphibians:
 - (A) Eastern tiger salamander (*Ambystoma tigrinum tigrinum*);
 - (B) Green salamander (*Aneides aeneus*);
 - (C) Junaluska salamander (*Eurycea junaluska*);
 - (D) Long-tailed salamander (*Eurycea longicauda longicauda*);
 - ~~(D)~~(E) Mabee's salamander (*Ambystoma mabeei*); and
 - (F) Pine Barrens tree frog (*Hyla andersonii*); and
 - ~~(E)~~(G) Wehrle's salamander (*Plethodon wehrlei*).
- (2) Birds:
 - (A) Bald eagle (*Haliaeetus leucocephalus*);
 - (B) Caspian tern (*Hydroprogne caspia*);
 - (C) Gull-billed tern (*Gelochelidon nilotica aranea*); and

- (3) Crustacea: ~~None Listed At This Time.~~
- (A) Broad River spiny crayfish (Cambarus spicatus);
- (B) French Broad crayfish (Cambarus reburrus);
- (C) Pamlico crayfish (Procambarus medialis);
- (D) Sandhills crayfish (Procambarus pearsei); and
- (E) South Mountains crayfish (Cambarus franklini).
- (4) Fish:
- (A) Bigeye jumprock (Moxostoma ariommum);
- (B) Carolina madtom (Noturus furiosus);
- (C) Carolina pygmy sunfish (Elassoma boehlkei);
- (D) Carolina redhorse (Moxostoma sp.)(Pee Dee River and its tributaries and Cape Fear River and its tributaries);
- (E) Least brook lamprey (Lampetra aepyptera);
- (F) Logperch (Percina caprodes);
- (G) Mimic shiner (Notropis volucellus);
- (H) Rosyface chub (Hybopsis rubrifrons);
- (I) Sharphead darter (Etheostoma acuticeps);
- (J) Sicklefins redhorse (Moxostoma sp.)(Hiwassee River and its tributaries and Little Tennessee River and its tributaries);
- (K) Turquoise darter (Etheostoma inscriptum); and
- (L) Waccamaw darter (Etheostoma perlongum).
- (5) Mammals:
- (A) Eastern woodrat (Neotoma floridana floridana);
- (B) Rafinesque's big-eared bat (Corynorhinus rafinesquii rafinesquii); and
- (C) Red wolf (Canis rufus).
- (6) Mollusks:
- (A) Alewife floater (~~Anodonta~~ Utterbackiana implicata);
- (B) Big-tooth covert (Fumonelix jonesiana);
- (C) Cape Fear threetooth (Triodopsis soelneri);
- ~~(D)~~ Carolina fatmucket (Lampsilis radiata conspicua);
- ~~(E)~~(D) Eastern lampmussel (Lampsilis radiata ~~radiata~~);
- ~~(F)~~(E) Eastern pondmussel (Ligumia nasuta);
- ~~(G)~~(F) Engraved covert (Fumonelix orestes);
- ~~(H)~~(G) Mountain creekshell (Villosa vanuxemensis);
- ~~(H)~~(H) Notched rainbow (Villosa constricta);
- ~~(I)~~(I) Rainbow (Villosa iris);
- ~~(K)~~(J) Roan supercoil (Paravitrea varidens);
- ~~(L)~~(K) Sculpted supercoil (Paravitrea ternaria);
- ~~(M)~~(L) Smoky Mountain covert (Inflectarius ferrissi);
- ~~(N)~~(M) ~~Squawfoot~~ Creeper (Strophitus undulatus);
- ~~(O)~~(N) Tidewater mucket (Leptodea ochracea);
- ~~(P)~~(O) Triangle floater (Alasmidonta undulata); and
- ~~(Q)~~(P) Waccamaw ambersnail (Catinella ~~waccamawensis~~) waccamawensis);
- ~~(R)~~ ~~Waccamaw fatmucket (Lampsilis fullerikati); and~~
- ~~(S)~~ ~~Waccamaw spike (Elliptio waccamawensis).~~
- (7) Reptiles:
- (A) Northern pine snake (Pituophis melanoleucus melanoleucus); and
- (B) Southern hognose snake (Heterodon simus).

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

15A NCAC 101.0105 SPECIAL CONCERN SPECIES LISTED

The following species of resident wildlife shall be designated as state-listed special concern species:

- (1) Amphibians:
- (a) Crevice salamander (Plethodon longicrus);
- (b) Dwarf salamander (Eurycea quadridigitata);
- (c) Dwarf black-bellied salamander (Desmognathus folkertsi);
- (d) Eastern hellbender (Cryptobranchus alleganiensis alleganiensis);
- (e) Four-toed salamander (Hemidactylum scutatum);
- (f) Gray treefrog (Hyla versicolor);
- ~~(g)~~ ~~Longtail salamander (Eurycea longicauda longicauda);~~
- ~~(h)~~(g) Mole salamander (Ambystoma talpoideum);
- ~~(i)~~(h) Mountain chorus frog (Pseudacris brachyphona);
- ~~(j)~~(i) Mudpuppy (Necturus maculosus);
- ~~(k)~~(j) Neuse River waterdog (Necturus lewisi);
- ~~(l)~~ Southern chorus frog (Pseudacris nigrita);
- (l) Southern zigzag salamander (Plethodon ventralis); and

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| <p>(m) Weller's salamander (<i>Plethodon welleri</i>).</p> <p>(2) Birds:</p> <p>(a) American oystercatcher (<i>Haematopus palliatus</i>);</p> <p>(b) Bachman's sparrow (<i>Peucaea aestivalis</i>);</p> <p>(c) Barn owl (<i>Tyto alba</i>);</p> <p>(d) Black-capped chickadee (<i>Poecile atricapillus</i>);</p> <p>(e) Black rail (<i>Laterallus jamaicensis</i>);</p> <p>(f)(e) Black skimmer (<i>Rynchops niger</i>);</p> <p>(g)(f) Brown creeper (<i>Certhia americana nigrescens</i>);</p> <p>(h)(g) Cerulean warbler (<i>Setophaga cerulea</i>);</p> <p>(i)(h) Glossy ibis (<i>Plegadis falcinellus</i>);</p> <p>(j)(i) Golden-winged warbler (<i>Vermivora chrysoptera</i>);</p> <p>(k)(j) Least bittern (<i>Ixobrychus exilis</i>);</p> <p>(l)(k) Least tern (<i>Sternula antillarum</i>);</p> <p>(m)(l) Little blue heron (<i>Egretta caerulea</i>);</p> <p>(n)(m) Loggerhead shrike (<i>Lanius ludovicianus</i>);</p> <p>(o)(n) Painted bunting (<i>Passerina ciris</i>);</p> <p>(p)(o) Red crossbill (<i>Loxia curvirostra</i>);</p> <p>(q)(p) Snowy egret (<i>Egretta thula</i>);</p> <p>(r)(q) Tricolored heron (<i>Egretta tricolor</i>);</p> <p>(s)(r) Vesper sparrow (<i>Poocetes gramineus</i>); and</p> <p>(t)(s) Wilson's plover (<i>Charadrius wilsonia</i>).</p> <p>(3) Crustacea:</p> <p>(a) Broad River spiny crayfish (<i>Cambarus spicatus</i>);</p> <p>(b)(a) Carolina skistodiaptomus (<i>Skistodiaptomus carolinensis</i>);</p> <p>(c)(b) Carolina well diacyclops (<i>Diacyclops jeanneli putei</i>);</p> <p>(d)(c) Chowanoke crayfish (<i>Oreoneetes</i> (<i>Faxonius virginiensis</i>);</p> <p>(e)(d) Graceful clam shrimp (<i>Lynceus gracilicornis</i>);</p> <p>(f)(e) Greensboro burrowing crayfish (<i>Cambarus catagius</i>);</p> <p>(g)(f) Hiwassee headwaters crayfish (<i>Cambarus parrishi</i>);</p> <p>(h)(g) Little Tennessee River crayfish (<i>Cambarus georgiae</i>);</p> <p>(i)(h) North Carolina spiny crayfish (<i>Oreoneetes</i> (<i>Faxonius carolinensis</i>); and</p> <p>(j)(i) Oconee stream crayfish (<i>Cambarus chaugaensis</i>); and <i>chaugaensis</i>).</p> <p>(k) Waccamaw crayfish (<i>Procambarus braswelli</i>).</p> <p>(4) Fish:</p> <p>(a) American brook lamprey (<i>Lethenteron</i> appendix);</p> <p>(b) "Atlantic" Highfin carpsucker (<i>Carpionodes sp. cf. velifer</i>);</p> | <p>(b)(c) Banded sculpin (<i>Cottus carolinae</i>);</p> <p>(e) Blackbanded darter (<i>Percina nigrofasciata</i>);</p> <p>(d) Bluefin killifish (<i>Lucania goodei</i>);</p> <p>(e)(d) Blue Ridge sculpin (<i>Cottus caeruleomentum</i>);</p> <p>(f)(e) Blueside darter (<i>Etheostoma jessiae</i>);</p> <p>(g)(f) Broadtail madtom (<i>Noturus sp.</i>)(Lumber River and its tributaries and Cape Fear River and its tributaries);</p> <p>(h)(g) Carolina darter (<i>Etheostoma collis</i>);</p> <p>(i)(h) Cutlip minnow (<i>Exoglossum maxillingua</i>);</p> <p>(j)(i) Freshwater drum (<i>Aplodinotus grunniens</i>)(French Broad River);</p> <p>(k) Highfin carpsucker (<i>Carpionodes velifer</i>)(Cape Fear River and its tributaries);</p> <p>(l)(j) Kanawha minnow (<i>Phenacobius teretulus</i>);</p> <p>(m)(k) Lake sturgeon (<i>Acipenser fulvescens</i>);</p> <p>(n)(l) Least killifish (<i>Heterandria formosa</i>);</p> <p>(o) Longhead darter (<i>Percina macrocephala</i>);</p> <p>(p)(m) Mooneye (<i>Hiodon tergisus</i>);</p> <p>(q)(n) Mountain madtom (<i>Noturus eleutherus</i>);</p> <p>(r)(o) Ohio lamprey (<i>Ichthyomyzon bdellium</i>);</p> <p>(s)(p) Olive darter (<i>Percina squamata</i>);</p> <p>(t)(q) Pinewoods darter (<i>Etheostoma mariae</i>);</p> <p>(u)(r) River carpsucker (<i>Carpionodes carpio</i>);</p> <p>(v)(s) Sandhills chub (<i>Semotilus lumbee</i>);</p> <p>(t) Sickle darter (<i>Percina williamsi</i>);</p> <p>(w)(u) Smoky dace (<i>Clinostomus sp.</i>)(Little Tennessee River and tributaries);</p> <p>(x)(v) Striped shiner (<i>Luxilus chrysocephalus</i>);</p> <p>(y)(w) Tennessee snubnose Snubnose darter (<i>Etheostoma simoterum</i>);</p> <p>(z)(x) Thinlip "Thinlip" chub (<i>Cyprinella zanema</i>)(Lumber River and its tributaries and Cape Fear River and its tributaries); (<i>Cyprinella sp. cf. zanema</i>);</p> <p>(aa)(y) Waccamaw killifish (<i>Fundulus waccamensis</i>);</p> <p>(z) Westfall's Darter (<i>Percina westfalli</i>);</p> <p>(bb)(aa) Wounded darter (<i>Etheostoma vulneratum</i>); and</p> <p>(cc)(bb) Yellowfin shiner (<i>Notropis lutipinnis</i>)(Savannah River and its tributaries).</p> <p>(5) Mammals:</p> <p>(a) Allegheny woodrat (<i>Neotoma magister</i>);</p> |
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- (b) Buxton Woods white-footed mouse (*Peromyscus leucopus buxtoni*);
 - (c) Coleman's oldfield mouse (*Peromyscus polionotus colemani*);
 - (d) Eastern big-eared bat (*Corynorhinus rafinesquii macrotis*);
 - (e) Eastern small-footed bat (*Myotis leibii leibii*);
 - (f) Florida yellow bat (*Lasiurus intermedius floridanus*);
 - (g) Pungo white-footed mouse (*Peromyscus leucopus easti*);
 - (h) Southeastern bat (*Myotis austroriparius*);
 - (i) Southern rock vole (*Microtus chrotorrhinus carolinensis*); and
 - (j) Star-nosed mole (*Condylura cristata parva*).
- (6) Mollusks:
- (a) Appalachian gloss (*Zonitoides patuloides*);
 - (b) Bidentate dome (*Ventridens coelaxis*);
 - (c) Black mantleslug (*Pallifera hemphilli*);
 - (d) Blackwater ancyliid (*Ferrissia hendersoni*);
 - (e) Blue-foot lancetooth (*Haplotrema kendeighi*);
 - (f) Cape Fear spike (*Elliptio marsupiobesa*);
 - (g) Clingman covert (*Fumonelix wheatleyi clingmanicus*);
 - (h) Dark glyph (*Glyphyalinia junaluskana*);
 - (i) Dwarf proud globe (*Patera clarki clarki*);
 - (j) Dwarf threetooth (*Triodopsis fulciden*);
 - (k) Fringed coil (*Helicodiscus fimbriatus*);
 - (l) Glossy supercoil (*Paravitrea placentula*);
 - (m) Great Smoky slitmouth (*Stenotrema depilatum*);
 - (n) High mountain supercoil (*Paravitrea andrewsae*);
 - (o) Honey glyph (*Glyphyalinia vanattai*);
 - (p) Lamellate supercoil (*Paravitrea lamellidens*);
 - (q) Mirey Ridge supercoil (*Paravitrea clappi*);
 - (r) Open supercoil (*Paravitrea umbilicaris*);
 - (s) Pink glyph (*Glyphyalinia pentadelphica*);
 - (t) Pod lance (*Elliptio folliculata*);
 - (u) Queen crater (*Appalachina chilhoweensis*);
 - (v) Ramp Cove supercoil (*Paravitrea lacteodens*);
 - (w) Ridged lioplax (*Lioplax subcarinata*);
 - (x) Roanoke slabshell (*Elliptio roanokensis*);
 - (y) Saw-tooth disc (*Discus bryanti*);
 - (z) Seep mudalia (*Leptoxis dilatata*);
 - (aa) Spike ~~(*Elliptio*)~~ (*Eurynia dilatata*);
 - (bb) Spiral coil (*Helicodiscus bonamicus*);
 - (cc) Velvet covert (*Inflectarius subpalliatius*);
 - (dd) Waccamaw amnicola (*Amnicola* sp.);
 - (ee) Waccamaw siltsnail (*Cincinnati* sp.); and
 - (ff) Wavy-rayed lampmussel (*Lampsilis fasciola*).
- (7) Reptiles:
- (a) Carolina pigmy rattlesnake (*Sistrurus miliarius miliarius*);
 - (b) Carolina swamp snake (*Seminatrix pygaea paludis*);
 - (c) Carolina watersnake (*Nerodia sipedon williamengelsi*);
 - (d) Cumberland slider (*Trachemys scripta troostii*);
 - (e) Diamondback terrapin (*Malaclemys terrapin*);
 - (f) Eastern chicken turtle (*Deirochelys reticularia reticularia*);
 - (g) Eastern coachwhip (*Coluber (=Masticophis) flagellum flagellum*);
 - (h) Eastern slender glass lizard (*Ophisaurus attenuates longicaudus*);
 - ~~(g) Eastern smooth green snake (*Ophedryx vernalis vernalis*)~~;
 - ~~(h)~~(i) Eastern spiny softshell (*Apalone spinifera spinifera*);
 - ~~(i)~~ Mimic glass lizard (*Ophisaurus mimicus*);
 - (j) Northern map turtle (*Graptemys geographica*);
 - ~~(j)~~(k) Outer Banks kingsnake (*Lampropeltis getula sticticeps*);
 - ~~(k)~~(l) Stripeneck musk turtle (*Sternotherus minor peltifer*); and
 - ~~(l)~~(m) Timber rattlesnake (*Crotalus horridus*).

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

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 46 – BOARD OF PHARMACY

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to adopt the rule cited as 21 NCAC

46 .1616 and amend the rules cited as 21 NCAC 46 .1317, .1703, .1706, and .2502.

Link to agency website pursuant to G.S. 150B-19.1(c):
www.ncbop.org/rulemakings.htm

Proposed Effective Date: September 1, 2021

Public Hearing:

Date: July 20, 2021

Time: 10:00 a.m.

Location: The public hearing will be held remotely. The public can participate on Teams at <https://tinyurl.com/3wn9x3xc> or may call 336-604-5350, conference ID 560 519 380#.

Reason for Proposed Action: Under existing rules of the Board of Pharmacy, the Board may grant limited service permits to pharmacies that operate on limited hours in an institutional setting (i.e., pharmacies in health care facilities). The only current distinction in the rules between a limited service permit and a regular permit is that a pharmacist may serve on an ongoing basis as the pharmacist-manager of multiple pharmacy permits only if those permits are limited service permits. As a practical matter, there has been an ad hoc development of the use of limited service permits in other settings where limited pharmaceutical services are provided.

The proposed adoption of Rule .1616 would codify a more expansive view of limited service permits that would include those pharmacies rendering services where the Board believes that services may be safely provided by pharmacist-managers who serve multiple pharmacies. Proposed Rule .1616 would further allow for the pharmacist-manager to be present at the limited service permit for less time than required at regular pharmacy permits, with the amount of time depending upon the amount necessary to safely supervise each type of permit. It further would allow the pharmacist-manager to designate an assistant pharmacist-manager to help exercise supervision due to the unique nature of these limited service permits.

Proposed changes to other rules (Rules .1317, .1703, .1706 and .2502) are principally intended to conform those rules to the new Rule .1616. In addition: (1) Rule .1317 will be generally updated to remove definitions that are no longer used elsewhere in the rules and, in some cases, to substitute similar terms that are used elsewhere in the rules; (2) Rule .1703 will be updated to provide that the pharmacist-manager does not need to personally package drugs to be dispensed by nurse practitioners and physician assistants; (3) Rule .2502 will clarify some pharmacist-manager duties already provided in the rules; and (4) Rule .2502(o) will also be removed as contrary to current pharmacy laws.

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517; fax (919) 246-1056; email ncboprulemaking@ncbop.org

Comment period ends: July 20, 2021 at 10:00 a.m.

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 .1300 - GENERAL DEFINITIONS

21 NCAC 46 .1317 DEFINITIONS

The definitions of various terms Terms used in this Chapter and are found in G.S. 90, Article 4A, are defined and as follows, unless otherwise defined in G.S. 90, Article 4A: follows:

- (1) ~~Ambulation assistance equipment. Assistanc~~
~~Equipment.~~ Devices that aid in walking, excluding canes, crutches, and walkers.
- (2) ~~Approved school or college of pharmacy. School or College of Pharmacy.~~ A school or college of pharmacy accredited by the American Council on Pharmaceutical Education, Education, or a foreign school with a professional pharmacy degree program of at least five years approved by the Board pursuant to G.S. 90 85.13.
- (3) ~~Auxiliary Drug Inventory.~~ A secure, segregated, supplementary source for drugs to be used solely for the purpose of providing adequate drug availability when the pharmacy is closed or the pharmacist is unavailable.
- (4) ~~Board.~~ As defined in G.S. 90 85.3(b).
- (5) ~~Certified technician.~~ A technician who has passed a pharmacy technician certification board exam, or its equivalent, that has been approved by the Board according to the rules in this Chapter.
- (6) ~~Consultant Pharmacist.~~ A licensed pharmacist who, in collaboration with the supervising physician and nurse practitioner or assistant to the physician, develops a retrospective drug utilization review program that:

- (a) ~~reviews the appropriateness of the choice of medication(s) for the patient and the patient's therapeutic regimen, including choice of medication, dose, frequency, and route of administration;~~
 - (b) ~~identifies and resolves therapeutic duplication in the patient's medication regimen; and~~
 - (c) ~~considers patient specific medication contraindications.~~
- ~~The consultant pharmacist holds himself available for consultation in person, by telephone, or by other means of direct communication at all times when drugs are dispensed.~~
- (7)(3) Diagnostic equipment. Equipment used to record physiological information while a person goes about normal daily living or while asleep in order to document a disease process. Early pregnancy tests (EPTs), thermometers, glucose meters, and cholesterol equipment are not included as diagnostic equipment.
 - (8)(4) Drug regimen review or drug use review. ~~Pharmaceutical care assessment. An onsite~~ A review of a patient's ~~or resident's~~ record by a licensed pharmacist that involves interpretation and evaluation of the drug therapy and other pharmaceutical care services to achieve intended medication outcomes and minimize negative effects of drug therapy.
 - (9) ~~Duplicate as used in G.S. 90-85.24. Any license, permit, or registration issued or reissued by the Board that is identical to a previously issued license, permit, or registration, including a permit reissued due to a change in pharmacist manager.~~
 - (10) ~~Emergency Drugs. Those drugs whose prompt use and immediate availability are generally regarded by physicians as essential in the proper treatment of unforeseen adverse changes in a patient's health or well being.~~
 - (11)(5) Employee. A person who is or would be considered an employee under the North Carolina Workers' Compensation Act. This definition applies to locations both within and outside of this State holding pharmacy or device and medical equipment permits and without regard to the number of persons employed by the permit holder.
 - (12) ~~Executive Director. The Secretary Treasurer and Executive Director of the Board.~~
 - (13)(6) Graduate of an approved school of college of pharmacy. ~~Approved School or College of Pharmacy.~~ A person who has received an undergraduate professional degree in pharmacy from an approved school or college of pharmacy, pharmacy, or a person who has graduated from a foreign professional school of
- ~~pharmacy and has successfully completed the Foreign Pharmacy Graduate Equivalency Examination offered by the National Association of Boards of Pharmacy and the Test of English as a Foreign Language.~~
 - (14) ~~HMES. Home medical equipment supplier.~~
 - (15)(7) Health Care Facility. Any organization One of the following organizations whose primary purpose is to provide a physical environment for patients to obtain health care services: ~~services. This shall include:~~
 - (a) a hospital;
 - (b) a long-term care facility;
 - (c) a mental health facility;
 - (d) a drug abuse treatment center;
 - (e) a penal institution; or
 - (f) a hospice.
 - (16)(8) Health Care Facility Pharmacy. A pharmacy permitted by the Board that provides services to patients of a Health Care Facility.
 - (17) ~~Indulgence in the Use of Drugs. The use of narcotic drugs or other drugs affecting the central nervous system or the use of intoxicating beverages to an extent as to deprive the user of reasonable self control or the ability to exercise such judgment as might reasonably be expected of an average prudent person.~~
 - (18)(9) Internet pharmacy, Pharmacy.
 - (a) A pharmacy that maintains an Internet web site for the purpose of selling or distributing prescription drugs; or
 - (b) A pharmacy that uses the internet, Internet, either itself, or through agreement with a third party, to communicate with or obtain information from patients; uses such communication or information, in whole or in part, to solicit, fill or refill prescriptions; or otherwise uses such communication or information, in whole or in part, to engage in the practice of pharmacy, pharmacy as defined in G.S. 90-85.3(r).
- Notwithstanding Sub-items (a) and (b) above, a pharmacy shall not be deemed an Internet pharmacy if it maintains an Internet web site for the following purposes only:
- (i) To post mere advertisements that do not attempt to facilitate, directly or through agreement with a third party, an actual transaction involving a prescription drug;
 - (ii) To allow a patient to communicate a request for a refill of a legitimate prescription originally filled by the pharmacy that

- maintains the Internet web site;
- (iii) To allow a customer to research drug interactions and clinical pharmacology information; or
 - (iv) To allow a patient to send an electronic mail message to a pharmacist licensed in North Carolina.
- (19) ~~Limited Service Pharmacy Permit. A pharmacy permit issued by the Board to an applicant who wishes to render in an institutional setting pharmaceutical services not limited to scope and kind but to time and conditions under which such services are rendered.~~
- (20) ~~Medication Therapy Management Services and Related Functions. Services and functions included in the practice of pharmacy as part of monitoring, recording and reporting drug therapy and device usage.~~
- (21) ~~Medication Administration Record. A record of drugs administered to a patient.~~
- (22)(10) Medication Order. An order for a prescription drug or other medication or a drug, device or medical equipment for a patient from a person authorized by law to prescribe them, medications.
- (23)(11) Mobility equipment. Devices that aid a person in self-movement, other than walking, including manual or power wheelchairs and scooters.
- (12) North Carolina resident or resident of North Carolina. Any patient who is a temporary or permanent resident of the State of North Carolina or who is present in the State of North Carolina at the time a drug, device, or medical equipment is dispensed to that person.
- (24)(13) Oxygen and respiratory care equipment. Equipment or devices used to administer oxygen or other legend drugs, maintain viable airways or monitor cardio-respiratory conditions or events, including the following:
- (a) compressed medical gases;
 - (b) oxygen concentrators;
 - (c) liquid oxygen;
 - (d) nebulizers;
 - (e) compressors;
 - (f) aerosol therapy devices;
 - (g) portable suction machines;
 - (h) nasal continuous positive airway pressure (CPAP) machines;
 - (i) Bi-phasic positive pressure devices (BiPAP);
 - (j) infant monitors, such as apnea monitors and cardio-respiratory monitors;
 - (k) positive and negative pressure mechanical ventilators; and
- (1) pulse oximeters.
- (25)(14) ~~Patient medication profile, patient profile or pharmacy profile. Medication Profile. A list of all prescribed medications prescribed for or dispensed to a patient.~~
- (26) ~~Pharmacist. Any person within the definition set forth in G.S. 90-85.3(p), including any druggist.~~
- (27)(15) Pharmacist-Manager. The person who accepts responsibility for the operation of a pharmacy in conformance with all statutes and rules pertinent to the practice of pharmacy and distribution of drugs by signing the permit application, its renewal or addenda thereto.
- (28) ~~Pharmacy. Any place within the definition set forth in G.S. 90-85.3(q), including any apothecary or drugstore.~~
- (29)(16) Pharmacy Intern. Any person who is registered with the Board under the internship program of the Board to acquire pharmacy experience or enrolled in approved academic internship programs. A pharmacy intern working under a pharmacist preceptor or supervising pharmacist may, while under supervision, perform all acts constituting the practice of pharmacy.
- (30) ~~Place of residence. Any place used as an individual's temporary or permanent home.~~
- (31) ~~President. The President of the Board.~~
- (32)(17) Rehabilitation environmental control equipment. Equipment or devices that permit a person with disabilities to control his or her immediate surroundings.
- (33) ~~Rehabilitation Services. Services and equipment required to maintain or improve functional status and general health as prescribed by the physician which are uniquely specified for each individual's lifestyle. The people involved in this process include the patient, caregiver, physician, therapist, rehabilitation equipment supplier and others who impact on the individual's life style and endeavors.~~
- (34) ~~Signature. A written or electronic signature or computerized identification code.~~
- (35) ~~Two Years of College Work. Attendance at a college accredited by an accrediting agency recognized by the United States Department of Education for two academic years of not fewer than eight and one half months each and the completion of work for credit leading to a baccalaureate degree or its equivalent and that would permit the student to advance to the next class.~~
- (36)(18) Undergraduate professional degree in pharmacy. Professional Degree in Pharmacy. A B.S. or Pharm. D. degree. A Bachelor of Science in Pharmacy or a Doctor of Pharmacy degree.

(37) ~~Vice President. The Vice President of the Board.~~

~~Authority G.S. 90-18.1; 90-18.2; 90-18.4; 90-85.3; 90-85.3A; 90-85.6; 90-85.8; 90-85.13; 90-85.14; 90-85.15; 90-85.15A; 90-85.21; 90-85.21A; 90-85.22; 90-85.26; 90-85.26A; 90-85.32; 90-85.33; 90-85.34; 90-85.34A; 90-85.38; 90-85.40; 90-85.41; 90-85.44. 90-85.40.~~

SECTION .1600 - LICENSES AND PERMITS

21 NCAC 46 .1616 LIMITED SERVICE PERMITS

(a) The following permits are described in this Chapter as "limited service permits:"

- (1) auxiliary medication inventories permitted and operating in health care facilities pursuant to Rule .1414(d) of this Chapter;
- (2) automated dispensing or drug supply devices permitted and operating in health care facilities pursuant to Rule .1419 of this Chapter;
- (3) facilities where drugs are dispensed only by nurse practitioners or physician assistants pursuant to Section .1700 of this Chapter;
- (4) county health departments or other governmental entities providing local health services under G.S. 130A-34 where drugs are dispensed only by registered nurses and only pursuant to G.S. 90-85.34A and Section .2400 of this Chapter;
- (5) county health departments or other governmental entities providing local health services under G.S. 130A-34 that engage in dispensing beyond that set out in G.S. 90-85.34A and Section .2400 of this Chapter;
- (6) free clinics, as defined in G.S. 90-85.44(a)(6); or
- (7) critical access hospitals, as defined in G.S. 131E-76.

(b) A pharmacist-manager for a limited service permit may designate one assistant pharmacist-manager but is not required to do so. An assistant pharmacist-manager is responsible for exercising all of the responsibilities of a pharmacist-manager when the assistant pharmacist-manager is present but the pharmacist-manager is not present at the limited service permit. If the pharmacist-manager chooses to designate an assistant pharmacist-manager, the pharmacist-manager shall notify the Board on the limited service permit application and, in writing, within 15 days of any change in the designation. Notwithstanding the pharmacist-manager's designation of an assistant pharmacist-manager, the pharmacist-manager shall be responsible for ensuring the pharmacy's compliance with all statutes, rules and standards at all times.

(c) For limited service permits, the pharmacist-manager attendance requirements set out in Rule .2502(b) of this Chapter are modified only as set forth herein:

- (1) For limited service permits described in Subparagraphs (a)(1) and (2) of this Rule, either the pharmacist-manager or the assistant pharmacist-manager must perform an in-

person, on-site visit at least once per calendar quarter to inspect the permit, review the operations of the permit with the persons involved in accessing them and ensure that the permits are operated in compliance with all applicable state and federal laws.

(2) For limited service permits described in Subparagraphs (a)(3) and (4) of this Rule, either the pharmacist-manager or the assistant pharmacist-manager must perform an in-person, on-site visit at least once per week to inspect the permit, review the operations of the permit with the persons involved in dispensing and ensure that the permits are operated in compliance with all applicable state and federal laws.

(3) For limited service permits described in Subparagraphs (a)(5), (6) and (7) of this Rule, either the pharmacist-manager or the assistant pharmacist-manager employed or otherwise engaged to supply pharmaceutical services may have a flexible schedule of attendance but shall be present for at least one-half of the hours the pharmacy is open or 20 hours a week, whichever is less. For the limited service permits described in Subparagraphs (a)(5) and (6) of this Rule, a licensed pharmacist must be present when the pharmacy is open as described in Rule .2502(e) of this Chapter. For the limited service permits described in Subparagraph (a)(7) of this Rule, the limited service may operate in the absence of a pharmacist only as set out in Rule .1413 of this Chapter.

(4) The limited service permit may name a temporary pharmacist-manager or assistant pharmacist-manager for a period not to exceed 90 days from the departure date of the previous pharmacist-manager or assistant pharmacist-manager. The temporary pharmacist-manager or assistant pharmacist-manager must accept the responsibilities of that position and must be present as set forth in this Rule. A limited service permit may not operate for a period of more than 30 days without a pharmacist employed or otherwise engaged as a permanent or temporary pharmacist-manager who has signed the permit for that pharmacy.

(d) A person may serve as the pharmacist-manager or the assistant pharmacist-manager for multiple limited service permits, and may serve as the pharmacist-manager or assistant pharmacist-manager for limited service permits in addition to serving as the pharmacist-manager for a maximum of one permit other than a limited service permit. A person may serve multiple limited permits only if that person is able to fulfill all of that person's duties under state and federal law.

(e) Other than as expressly set forth in this section, limited service permits and their pharmacy personnel must follow all requirements of state and federal law. This Rule does not replace

or modify the requirements that the pharmacist-manager provide oversight and supervision as provided elsewhere in these Rules.

Authority G.S. 90-18.1; 90-18.2; 90-85.6; 90-85.21; 90-85.33; 90-85.34; 90-85.34A.

SECTION .1700 - DRUGS DISPENSED BY NURSE OR PHYSICIAN'S ASSISTANT

21 NCAC 46 .1703 DRUGS TO BE DISPENSED

(a) The nurse practitioner may dispense any and all drugs that the nurse practitioner is authorized by law to prescribe.

(b) The physician assistant may dispense any and all drugs that the physician assistant is authorized by law to prescribe.

~~(c) The pharmacist shall prepare a plan to ensure that there are adequate amounts of each of the drugs dispensed by a nurse practitioner or physician assistant, and that such drugs are properly stored and packaged.~~

~~(d)~~(c) All drugs dispensed by a nurse practitioner or physician assistant must be dispensed from a place holding a current pharmacy permit from the Board as required by G.S. 90-85.21.

~~(e)~~(d) The consulting pharmacist-manager or another licensed pharmacist working under the pharmacist-manager's supervision shall be available for consultation in person, by telephone, or other means of direct communication at all times when drugs are dispensed, including to perform drug regimen review for patients as needed. ~~dispensed.~~

~~(f)~~(e) All drugs dispensed pursuant to G.S. 90-18.1(c), 90-18.2(c) and the rules of this Section shall be packaged, labeled, and otherwise dispensed in compliance with state and federal law, and records of dispensing shall be kept in compliance with state and federal law. The pharmacist-manager shall be responsible for compliance with these laws at all times, regardless of whether the pharmacist-manager is present at the time of dispensing. ~~All drugs dispensed by the nurse practitioner or physician assistant shall be prepackaged in safety closure containers and shall be appropriately pre-labeled (including necessary auxiliary labels) by the pharmacist with all information required by law except the name of the patient and the directions for use. The name of the patient and directions for use of the drugs shall be placed on the label by the nurse practitioner or physician assistant at the time it is delivered to the patient or his agent.~~

Authority G.S. 90-18.1; 90-18.2; 90-85.6; 90-85.21; 90-85.26; 90-85.6.

21 NCAC 46 .1706 RETROSPECTIVE REVIEW AND CONSULTATION

During the weekly in-person, on-site visit required by Rule .1616(c)(2) of this Chapter, if not more frequently, the pharmacist-manager or assistant pharmacist-manager shall retrospectively perform a drug regimen review of all drugs dispensed by a nurse practitioner or physician assistant. During this review, the pharmacist-manager or assistant pharmacist-manager shall:

- (a) review the appropriateness of the choice of medication(s) for each patient and the patient's therapeutic regimen, including choice of

medication, dose, frequency, and route of administration;

- (b) identify and resolve therapeutic duplication in each patient's medication regimen; and

- (c) consider patient-specific medication contraindications.

~~All drugs dispensed by a nurse practitioner or physician assistant shall be retrospectively reviewed by a pharmacist on a weekly basis. The reviewing pharmacist may advise and consult with the dispensing nurse practitioner, physician assistant, or supervising physician about potential drug therapy concerns which may result from:~~

- (1) ~~therapeutic duplication;~~
- (2) ~~drug-disease contraindication;~~
- (3) ~~interactions between or among drugs, including serious interactions with prescription or over-the-counter drugs;~~
- (4) ~~incorrect drug dosage or duration of drug treatment;~~
- (5) ~~interactions between drugs and allergies; and~~
- (6) ~~clinical abuse or misuse.~~

Authority G.S. 90-18.1; 90-18.2; 90-85.6.

SECTION .2500 - MISCELLANEOUS PROVISIONS

21 NCAC 46 .2502 RESPONSIBILITIES OF PHARMACIST-MANAGER

(a) The pharmacist-manager shall assure that prescription legend drugs and controlled substances are safe and secure within the pharmacy.

(b) ~~The~~ Except as expressly provided in Rule .1616 of this Chapter, the pharmacist-manager employed or otherwise engaged to supply pharmaceutical services may have a flexible schedule of attendance but shall be present for at least one-half the hours the pharmacy is open or 32 hours a week, whichever is less. A pharmacist employee not meeting this requirement may serve as temporary pharmacist-manager of the permit holder for a period not to exceed 90 days from the departure date of the previous pharmacist-manager, if the pharmacist employee is present at least 20 hours per week in the pharmacy. A pharmacy may not operate for a period of more than 30 days without a pharmacist employed or otherwise engaged as a permanent or temporary pharmacist-manager who has signed the permit for that pharmacy.

(c) Whenever a change of ownership or change of pharmacist-manager occurs, the successor pharmacist-manager shall complete an inventory of all controlled substances in the pharmacy within 10 days. A written record of the inventory, signed and dated by the successor pharmacist-manager, shall be maintained in the pharmacy with other controlled substances records for a period of three years.

(d) The pharmacist-manager shall develop and implement a system of inventory record-keeping and control that will enable that pharmacist-manager to detect any shortage or discrepancy in the inventories of controlled substances at that pharmacy at the earliest practicable time.

(e) The pharmacist-manager shall maintain authority and control over ~~any and~~ all access keys to the pharmacy and shall be

responsible for the security of the pharmacy. Except as provided in Rules .1413(c) and .1616(c)(1) and (2) of this Chapter, a pharmacist must be present at both the opening and closing of the pharmacy. If no pharmacist will be present in the pharmacy for a period of 90 minutes or more between the opening and closing of the pharmacy, ~~more,~~ the pharmacy shall be secured to prohibit unauthorized entry.

(f) These duties shall be in addition to the ~~specific~~ duties of pharmacist-managers ~~at institutional pharmacies and pharmacies in health departments~~ as set forth in the ~~other~~ rules in this Chapter.

(g) A person shall not simultaneously serve as pharmacist-manager ~~at~~ for more than one permit, pharmacy, unless:

(1) ~~the person is serving simultaneously as pharmacist manager at pharmacies holding a limited service permit; or any additional permits beyond that one permit is a limited service permit as provided in Rule .1616 of this Chapter; or~~

(2) the person is serving simultaneously as pharmacist-manager at two pharmacies holding full service permits, one of which is a newly permitted pharmacy that has not yet begun providing pharmacy services to patients. When the newly permitted pharmacy begins providing pharmacy services to patients or six months from the issuance of the new pharmacy permit, whichever occurs sooner, the person shall relinquish the former pharmacist-manager position and notify the Board of having done so.

(h) When a pharmacy is to be closed permanently, the pharmacist-manager shall inform the Board and the United States Drug Enforcement Administration of the closing, arrange for the proper disposition of the pharmaceuticals, and return the pharmacy permit to the Board's offices within 10 days of the closing date. If possible, notice of the closing shall be given to the public by posted notice at the pharmacy at least 30 days prior to the closing date and 15 days after the closing date. Such notice shall notify the public that prescription files may be transferred to a pharmacy of the patient's or customer's choice during the 30-day period prior to the closing date. During the 30-day period prior to the closing date, the pharmacist-manager and the pharmacy's owner (if the owner is other than the pharmacist-manager), shall transfer prescription files to another pharmacy chosen by the patient or customer, upon request. Absent specific instructions from the patient or customer, the pharmacist-manager and the pharmacy's owner (if the owner is other than the pharmacist-manager), shall transfer prescription files to another pharmacy for maintenance of patient therapy and shall inform the public of such transfer by posted notice at the pharmacy for 15 days after the closing date, if possible. Controlled substance records shall be retained for the period of time required by law.

(i) If possible, the pharmacist-manager shall ensure that notice of the temporary closing of any pharmacy for more than 14 consecutive days is given to the public by posted notice at the pharmacy at least 30 days prior to the closing date, and 15 days after the closing date. Such notice shall notify the public that prescription files may be transferred to a pharmacy of the patient's or customer's choice during the 30-day period prior to the closing

date. During the 30-day period prior to the closing date, the pharmacist-manager and the pharmacy's owner (if the owner is other than the pharmacist-manager), shall transfer prescription files to another pharmacy chosen by the patient or customer, upon request.

(j) The pharmacist-manager shall prepare a plan to safeguard prescription records and pharmaceuticals and minimize the interruption of pharmacy services in the event of a natural disaster such as hurricane or flood.

(k) The pharmacist-manager shall separate from the dispensing stock all drug products more than six months out of date.

(l) The pharmacist-manager shall report to the Board information that reasonably suggests that there is a probability that a prescription drug or device dispensed from a location holding a permit has caused or contributed to the death of a patient or customer. This report shall be filed in writing on a form provided by the Board within 14 days of the owner representative or pharmacist-manager's becoming aware of the event. The pharmacist-manager shall retain all documents, labels, vials, supplies, substances, and internal investigative reports relating to the event. All such items shall be made available to the Board upon request.

(m) The Board shall not disclose the identity of a pharmacist-manager who makes a report under Paragraph (l) of this Rule, except as required by law. No report made under Paragraph (l) of this Rule shall ~~not~~ be released except as required by law.

(n) In any Board proceeding, the Board shall consider compliance with Paragraph (l) of this Rule as a mitigating factor and noncompliance with Paragraph (l) of this Rule as an aggravating factor.

~~(o) The pharmacist manager shall ensure that all starter doses of medication supplied to doctors' offices from the pharmacy are accompanied by written materials advising the patient that such doses of medication may be supplied by any pharmacy. Starter doses shall be limited to a 24 hour dose supply per patient.~~

Authority G.S. 90-18.1; 90-18.2; 90-85.6; 90-85.15A; 90-85.21; 90-85.21A; 90-85.25; 90-85.26; 90-85.32; 90-85.33; 90-85.34; 90-85.34A. ~~90-85.32.~~

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Pharmacy intends to amend the rule cited as 21 NCAC 46 .1816 and repeal the rule cited as 21 NCAC 46 .1417.

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): www.ncbop.org/rulemakings.htm

Proposed Effective Date: September 1, 2021

Public Hearing:

Date: July 20, 2021

Time: 10:00 a.m.

Location: The public hearing will be held remotely. The public can participate on Teams at <https://tinyurl.com/3wn9x3xc> or may call 336-604-5350, conference ID 560 519 380#.

Reason for Proposed Action: The rule changes would consolidate two existing rules (21 NCAC 46 .1417 and 21 NCAC .1816) into one rule that governs situations where two pharmacies provide services with respect to a prescription. The principal substantive changes are: (1) to expand remote medication order processing services from its existing use with health care facility pharmacies so that remote medication order processing services can be used by any pharmacy permitted by the state; (2) to expand the pharmacy personnel who may provide remote medication order processing services so that they may be provided by registered technicians in addition to licensed pharmacists; and (3) to provide that pharmacies involved in centralized pharmacy services may decide which of those pharmacies provide the required patient counseling for mail-order or other delivered prescriptions.

Comments may be submitted to: Jay Campbell, 6015 Farrington Road, Suite 201, Chapel Hill, NC 27517; fax (919) 246-1056; email ncboprulemaking@ncbop.org

Comment period ends: July 20, 2021 at 10:00 a.m.

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 .1400 - HOSPITALS: OTHER HEALTH FACILITIES

21 NCAC 46 .1417 REMOTE MEDICATION ORDER PROCESSING SERVICES

Authority G.S. 90-85.6; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.34.

SECTION .1800 - PRESCRIPTIONS

21 NCAC 46 .1816 PROCEDURES FOR CENTRALIZED PHARMACY SERVICES PROCESSING OF PRESCRIPTION ORDERS

(a) This Rule sets out the requirements under which pharmacies may engage in "centralized pharmacy services," which consist of both centralized prescription services and remote medication order processing services, as defined in this Rule, with respect to any prescription to be dispensed by a pharmacy located within this State, or shipped, mailed, or delivered in any manner into this State.

(b) Regardless of whether located within or outside the State of North Carolina, the following requirements apply to any pharmacy involved with any part of the practice of pharmacy in centralized pharmacy services:

- (1) The pharmacies must be permitted by the Board before providing any centralized pharmacy services.
- (2) The pharmacies must either:
 - (A) Be owned by the same person or entity; or
 - (B) Before dispensing any prescription within or into this State, must have entered into a written contract that specifies the services to be provided and the responsibilities and accountabilities of each pharmacy to ensure compliance with state and federal statutes and regulations.
- (3) The pharmacies must share a real-time, online database, or have technology to allow secure access to the pharmacies' information system and to provide access to the information required to provide centralized pharmacy services in compliance with state and federal statutes and regulations.
- (4) The pharmacies, their pharmacist-managers, and their pharmacy personnel must comply with all provisions of the Pharmacy Practice Act, this Chapter and all other State of North Carolina and federal statutes and regulations applicable to the practice of pharmacy and the distribution of drugs, devices and medical equipment in addition to the statutes and regulations of the state(s) in which the pharmacies are located (if not located in North Carolina) and into which any drugs, devices or medical equipment are shipped and dispensed (if not North Carolina). The pharmacies, their pharmacist-managers and their pharmacy personnel are jointly and severally responsible

for ensuring that these statutes and regulations are followed.

(5) The pharmacies must notify the Board before providing centralized pharmacy services.

(c) Centralized prescription filling services.

(1) "Centralized prescription filling services" consist of a receiving pharmacy receiving a prescription from an originating pharmacy, processing that prescription, and delivering the drug, device, or medical equipment to the originating pharmacy for dispensing to the patient.

(2) In this Rule, the "originating pharmacy" is the pharmacy that was presented the prescription, whether by the patient, the prescriber, or by transfer, and that ultimately dispenses the drug, device, or medical equipment to the patient. In this Rule, the "receiving pharmacy" is the pharmacy that processes the prescription and delivers the drug, device, or medical equipment to the originating pharmacy for dispensing to the patient.

~~(a)~~(3) A pharmacy permitted by the Board The receiving pharmacy may process a request for the filling or refilling of a prescription order received by a pharmacy within this State, the originating pharmacy, provided:

(1) The pharmacy that is to fill or refill the prescription either has a contract with the pharmacy which received the prescription or has the same owner as the other originating pharmacy;

(A) Both the originating pharmacy and the receiving pharmacy satisfy the requirements in Paragraph (b) of this Rule.

~~(2)~~(B) The prescription container: drug, device, or medical equipment (A) is clearly labeled with all information required by Federal and State laws and regulations; and (B) clearly shows both the name and address of the receiving pharmacy refilling the prescription and the name and address of the originating pharmacy; pharmacy which receives the refilled prescription for dispensing to the patient.

~~(3)~~(C) The patient is provided with written information, either on the prescription label or with the prescription container drug, device, or medical equipment that describes which pharmacy to contact for patient counseling or other questions; however, if the drug, device, or medical equipment is dispensed in person to the patient or the patient's agent, an offer must be made for a pharmacist at the

originating pharmacy to counsel the patient in accordance with the requirements of Rule .2504 of this Chapter; if the patient has any questions about the prescription or medication.

~~(4)~~ Both pharmacies maintain complete and accurate records of the prescription, including:
(A) the name of the pharmacist who fill or refills the prescription;
(B) the name of the pharmacy filling or refilling the prescription; and
(C) the name of the pharmacy that received the fill or refill request.

~~(5)~~ The pharmacy that fills or refills the prescription and the pharmacy that receives the prescription for dispensing to the patient share a common electronic file; and

~~(6)~~(D) The originating pharmacy satisfies all responsibility is responsible for compliance with the requirements of Federal and State laws statutes and regulations regarding recordkeeping and patient counseling. recordkeeping, and the receiving pharmacy further maintains complete and accurate records of each prescription for at least three years.

(4) Centralized prescription filling services do not include prescriptions that are dispensed or delivered by the receiving pharmacy, for which the pharmacies should comply with the requirements for the originating pharmacy to transfer the prescription under Rule .1806 of this Chapter.

(5) Centralized prescription filling services do not include prescriptions for which remote order processing services are performed, but the drug, device, or medical equipment is dispensed or delivered by the pharmacy to which the prescription was presented, for which the pharmacies should comply with the requirements for remote medication order processing services in this Rule.

~~(b)~~ Nothing in this Rule shall be construed as barring a pharmacy from also filling new prescriptions presented by a patient or a patient's agent or transmitted to it by a prescriber.

(d) Remote medication order processing services.

(1) "Remote medication order processing services" consist of a pharmacy performing some act in the practice of pharmacy – other than a physical act in the dispensing process – for another pharmacy that dispenses a drug, device, or medical equipment. Remote medication order processing services include the following:

(A) receiving, interpreting, or clarifying medication orders;
(B) entering data and transferring medication order information;

- (C) performing drug regimen review;
 - (D) interpreting patient clinical data to ensure proper prescription drug therapy;
 - (E) performing therapeutic interventions; and
 - (F) providing patient counseling or other drug information to patients and providers concerning prescriptions or drugs, devices, or medical equipment; however, if the drug, device or medical equipment is dispensed in person to the patient or the patient's agent, an offer must be made for a pharmacist at the dispensing pharmacy to counsel the patient in accordance with the requirements of Rule .2504 of this Chapter.
- (2) In this Rule, the "dispensing pharmacy" is the pharmacy that was presented the prescription and dispenses the drug, device, or medical equipment. In this Rule, a "remote medication order processing pharmacy" is a pharmacy that provides an act in the practice of pharmacy for the dispensing pharmacy pursuant to this Rule.
- (3) The remote medication order processing pharmacy may provide remote medication order processing services for the dispensing pharmacy, provided:
- (A) The dispensing pharmacy and the remote medication order processing pharmacy satisfy the requirements in Paragraph (b) of this Rule.
 - (B) The pharmacies involved in remote medication order processing services jointly develop, maintain, and follow a manual of policies and procedures that include policies and procedures for:
 - (i) operation of the system described in Subparagraph (b)(3) of this Rule;
 - (ii) following the dispensing pharmacy's policies regarding medication order processing;
 - (iii) defining and ensuring the performance of each pharmacy's responsibilities;
 - (iv) maintaining contact information for how to communicate with the pharmacies at all times when remote medication order processing services are performed;
 - (v) training and annual review of pharmacy personnel of the remote medication order processing pharmacy;
- (vi) communicating and resolving questions or problems arising during the remote medication order processing services;
 - (vii) communicating changes in the formulary to pharmacy personnel;
 - (viii) protecting the confidentiality and integrity of patient information;
 - (ix) identifying the name(s), initial(s), or identification code(s) and specific activity or activity of each pharmacy personnel who perform any remote medication order processing services;
 - (x) complying with all state and federal laws;
 - (xi) operating a quality improvement program designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, to pursue opportunities to improve patient care, and resolve identified problems;
 - (xii) updating these policies and procedures any time changes are necessary; and
 - (xiii) communicating changes in these policies and procedures to pharmacy personnel.
- (C) The policy and procedures manual be reviewed at least annually, updated as needed, and any review and changes be documented and communicated to all pharmacy personnel.
- (D) The remote medication order processing pharmacy train all pharmacy personnel providing remote medication order processing services on the policies and procedures required by Part (B) of this Subparagraph. The pharmacist-manager of the remote medication order processing pharmacy must ensure that pharmacy personnel are able to perform at the same level of competence, attention, and proficiency as if the personnel were in the dispensing pharmacy. The pharmacist-manager shall document all training.
- (E) All remote medication order processing services be provided from a site operated by a remote medication

order processing pharmacy, located within the United States, and with access to the technology required in Subparagraph (b)(3) of this Rule. This may include a remote site outside of the remote medication order processing pharmacy, so long as all requirements of state and federal laws and regulations, including this Rule, are satisfied.

(F) Regardless of whether pharmacy personnel or the pharmacies are located within or outside the State of North Carolina, all remote medication order processing services be provided by a pharmacist who is licensed by this Board, or by a pharmacy technician who is registered with this Board. Pharmacy technicians may provide only those remote medication order processing services that they are permitted to perform under G.S. 90-85.3(q2).

(G) The remote medication order processing pharmacy, its pharmacist-manager, and its pharmacy personnel be responsible for compliance with all state and federal statutes and rules and their policies and procedures governing the provision of remote medication order processing services.

(H) The dispensing pharmacy satisfy all responsibility for compliance with the

requirements of state and federal statutes and regulations regarding recordkeeping, and the records document the activities of each pharmacy personnel providing remote medication order processing services and the specific activity or activities performed by each person. These records shall be maintained for a period of at least three years.

(4) Remote medication order processing services do not include services with respect to prescriptions in which some physical act in the dispensing process is performed by a pharmacy other than the dispensing pharmacy. If a pharmacy receiving a prescription from a patient, prescriber, or by transfer wishes for another pharmacy to perform a physical act in the dispensing process, it must either transfer the prescription to that pharmacy under Rule .1806 of this Chapter, or follow the procedures for centralized prescription filling services in this Rule.

(e) Nothing in this Rule relieves a pharmacy receiving centralized pharmacy services (i.e., an originating pharmacy or a dispensing pharmacy) of the need to provide on-site services required for permitting as provided in the Pharmacy Practice Act and this Chapter.

Authority G.S. 90-85.6; 90-85.15A; 90-85.21; 90-85.21A; 90-85.26; 90-85.32; 90-85.33; 90-85.34.

Note from the Codifier: The rules published in this Section of the NC Register are temporary rules reviewed and approved by the Rules Review Commission (RRC) and have been delivered to the Codifier of Rules for entry into the North Carolina Administrative Code. A temporary rule expires on the 270th day from publication in the Register unless the agency submits the permanent rule to the Rules Review Commission by the 270th day.

This section of the Register may also include, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements.

TITLE 11 - DEPARTMENT OF INSURANCE

Rule-making Agency: North Carolina Code Officials Qualifications Board

Rule Citation: 11 NCAC 08 .0735 and .0736

Effective Date: April 23, 2021

Date Approved by the Rules Review Commission: April 15, 2021

Reason for Action:

11 NCAC 08 .0735 - A serious and unforeseen threat to the public health, safety or welfare. 11 NCAC 08 .0735 was first adopted in 2020 as an emergency rule and then a temporary rule in response to the COVID-19 pandemic. At that time, it was unclear how long the COVID-19 global pandemic would continue to affect the ability of Code Enforcement Officials (CEO's) to take the certification classes, certification tests, or continuing education courses necessary to obtain or retain certificates in their respective trades. A CEO must possess an active certificate, whether temporary, probationary, or permanent, as a condition of employment with an inspections department. It was expected that conditions caused by the pandemic would improve by the first quarter of 2021, and that certification classes and certification testing would become more readily available before that time. That rule provided that all Temporary Certificates were valid from March 12, 2020 through March 12, 2021. The ongoing duration of the COVID 19 pandemic, subsequent worsening of the COVID-19 pandemic during the "second wave" this past fall and winter, and delays in widespread vaccination are serious and unforeseen circumstances to the North Carolina Code Enforcement Qualifications Board and its partners in the community college system, professional associations, and code enforcement community. Only recently have group gathering restrictions begun to loosen, and the timeframe for a return to normalcy remains unknown and unpredictable.

It became apparent to the COQB that the circumstances that necessitated the initial adoption of .0735 as an emergency rule, and then as a temporary rule, will remain in effect longer than reasonably expected and beyond the March 12, 2021 expiration initially set in the rule. By statute, Temporary Certificates are valid for not less than one year and not more than three years. During the October 27, 2020 meeting of the COQB, the COQB acknowledged the effects that continuing in person meeting limitations and close contact quarantine protocols were having on certification courses, certification tests, and continuing education classes, which made them unavailable both in number of seats and in offerings to meet the demands of the code enforcement community. Certification courses are offered to

CEOs through the community college system. The community college system continues to have difficulty transitioning these courses online to offer to CEOs in a safe manner. Local inspections jurisdictions continue to have travel restrictions on the out of jurisdiction travel of CEOs in response to the pandemic. These travel restrictions have further limited the ability of CEOs to travel to the few in person classes and tests that are available. The COQB moved to pursue an amendment to the existing .0735 to extend the expiration date of these temporary certificates from March 12, 2021 to December 31, 2021. The amendment of this rule is intended to serve the interest of CEOs by keeping their certificates active so that they can stay employed and also the greater public interest by ensuring that there are adequate numbers of CEOs to perform the vital job of code enforcement. At this time, adherence to the notice and hearing requirements was contrary to the public interest because the effective date of the rule would have been past the current expiration date of the temporary certificates. This would have caused CEO's to lose existing temporary certificates during the permanent rule-making process, perhaps their employment, and would have reduced the already limited pool of qualified CEOs available to perform code inspections. On January 26, 2021, the COQB approved the revised text of .0735 as an emergency rule and as a temporary rule. These rules were submitted to OAH, and the text of the emergency rule was approved by OAH with an effective date of February 25, 2021. Utilizing emergency and temporary procedures ensured that the rule would become effective prior to the expiration of existing temporary certificates.

In response to these serious and unforeseen circumstances that threaten public health and safety, adoption of this temporary rule is now required to ensure that the temporary certificates that were issued under this administrative rule do not expire during the still uncertain pendency of the COVID-19 global health pandemic. The amendment of this rule will ensure that temporary certificate holders remain able to maintain their employment with their local jurisdictions performing the vital function of building and code inspections. The COQB does not intend to amend this rule further and will pursue permanent rule-making, if necessary, in the future for any further revision to .0735.

11 NCAC 08 .0736 - A serious and unforeseen threat to the public health, safety or welfare. 11 NCAC 08 .0736 was adopted as a temporary and emergency rule by the COQB at the January 26, 2021 quarterly meeting of the Board. The rule was adopted in response to the effect the COVID-19 global pandemic was having on the ability of Code Enforcement Officials (CEO's) to take the amount of continuing education ("CE") credits required yearly for each certificate. A CEO, by rule, must take 6 hours of CE each year per certificate prior to June 30 in order to renew their certificate. In 2020, the COQB, pursuant to N.C.G.S. § 143-151.13a(e), granted each CEO a one year extension of time to

complete their 2020 CE requirement. This requirement, and the regular 2021 CE requirement, were coming due in June 2021. The ongoing duration of the COVID 19 pandemic, subsequent worsening of the COVID-19 pandemic during the "second wave" this past fall and winter, and delays in widespread vaccination are serious and unforeseen circumstances to the North Carolina Code Enforcement Qualifications Board and its partners in the community college system, professional associations, and code enforcement community. These circumstances have continued to prevent many CEOs, especially in smaller and more remote jurisdictions, from obtaining the amount of CE that is required for them to keep their certificates active. Only recently have group gathering restrictions begun to loosen, and the timeframe for a return to normalcy remains unknown and unpredictable. The COQB expected that conditions caused by the pandemic would improve by the first quarter of 2021, and that continuing education classes would become more readily available before that time. During the October 27, 2020 meeting of the COQB, the COQB considered and acknowledged the effects that continuing in person meeting limitations and close contact quarantine protocols were having on continuing education classes. CE classes are traditionally offered by trade group at large conferences, agencies, and local inspections department. These providers have been forced to cancel these typically large gatherings where the CE classes are offered due to the COVID pandemic. Local inspections jurisdiction continue to have travel restrictions on the out of jurisdiction travel of CEOs in response to the pandemic. These travel restrictions have further limited the ability of CEOs to travel to the few CE classes that are available. At the October 27, 2020 meeting of the COQB, an option was considered for Office of State Fire Marshal staff, for the first time, to potentially offer a one hour CE course that would be available online through the NCDOL website. The option required further study and development by OSFM staff. The COQB moved to pursue rule-making that would allow for this 1 hour CE class to satisfy the CE requirement of a CEO for one fiscal year, either the 2020 or 2021 fiscal year CE requirement. The COQB wanted this administrative rule written as an option while the viability of OSFM staff offering this online CE was explored further. At this time, permanent rule-making was not an option because the technical requirements for offering the CE class online were not yet in place with NCDOL. On January 26, 2021, the COQB approved the text of .0736 as an emergency rule and as a temporary rule. Adherence to the notice and hearing requirements of permanent rulemaking was contrary to the public interest because the rule needed to be approved and effective prior to June 30, 2021, and with enough time allowed for CEOs to learn of the course, complete the course, and submit their renewal applications prior to the June 30, 2021 deadline. This rule serves the interest of CEOs by ensuring they have an online alternative to CE that satisfies their yearly CE requirement to keep their certificates active. The public interest is served by ensuring that certified CEOs are available to perform vital code inspections. This rule was submitted to OAH, and the text of the emergency rule was approved by OAH with an effective date of February 25, 2021.

Temporary adoption of 11 NCAC 08 .0736 is now necessary to ensure that CEOs have an immediate continuing education option

available to them, offered in a safe online setting, to satisfy their yearly continuing education requirement to keep their permanent certificates active.

CHAPTER 08 - ENGINEERING AND BUILDING CODES DIVISION

SECTION .0700 - QUALIFICATION BOARD-STANDARD CERTIFICATE

11 NCAC 08 .0735 TEMPORARY CERTIFICATE

(a) A temporary certificate shall be issued without examination or additional application to any code enforcement official (CEO) who currently possesses a probationary certificate that expires between March 12, 2020 and ~~December 31, 2020~~ August 31, 2021. The application the CEO initially submitted to obtain the probationary certificate shall provide the basis for issuing the temporary certificate.

(b) A temporary certificate shall authorize the CEO, during the effective period of the certificate, to hold the position of the type, level, and location that corresponds to the probationary certificate the applicant previously received. The certificate shall specify the type and level of code enforcement in which the CEO may engage and may be conditioned upon his or her having supervision from an official with the specified certification or qualifications included on the CEO's probationary certificate application.

(c) The temporary certificate shall be effective ~~for one year only~~ for the period of March 12, 2020 through ~~March 12, 2021~~ December 31, 2021 and shall not be renewed. During ~~the one year period~~, this period of time, the official shall complete the requirements set forth in 11 NCAC 08 .0706 to qualify for the appropriate standard certificate.

(d) A CEO who is issued a temporary certificate that the CEO no longer needs or wants shall return the temporary certificate, within 30 days, to the Engineering and Codes Division of Department of Insurance for cancellation.

(e) A temporary certificate shall remain valid only so long as the person certified is employed by the State or a local government as a code enforcement official of the type and level indicated on the certificate. If the person certified leaves such employment for any reason, he or she shall return the certificate to the Board.

(f) A CEO with only a temporary certificate and no standard or limited certificate is not required to complete any continuing education courses.

Authority G.S. 143-151.12; 143-151.13.

11 NCAC 08 .0736 FY 2020-2021 SPECIAL CE REQUIREMENT

Every Code Enforcement Official (CEO) shall complete a one-hour course titled CS4424 Chapter 160D offered by the NC Department of Insurance on <https://www.ncosfm.gov/> on or before June 30, 2021. A CEO who has not yet completed the continuing education hour requirement specified in 11 NCAC 08 .0713(c) for the period ending June 30, 2020 or the period ending June 30, 2021 may satisfy that requirement for either time period by completing CS4424 Chapter 160D. Completion of this course satisfies the annual professional development program credit hour requirement needed for every standard certificate held by the

TEMPORARY RULES

CEO. Completion of CS4424 Chapter 160D satisfies the continuing education hours needed by the CEO for either the fiscal year ending June 30, 2020 or June 30, 2021, but not both.

Authority G.S. 143-151.12; 143-151.13A.

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission April 15, 2021 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 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
Robert A. Bryan, Jr.
Margaret Currin
Jeff Hyde
Robert A. Rucho

Appointed by House

Anna Baird Choi (1st Vice Chair)
Andrew P. Atkins (2nd Vice Chair)
Paul Powell
Randy Overton
Vacant

COMMISSION COUNSEL

Amber Cronk May	984-236-1936
Amanda Reeder	984-236-1939
Ashley Snyder	984-236-1941

RULES REVIEW COMMISSION MEETING DATES

May 20, 2021	June 17, 2021
July 15, 2021	August 19, 2021

**RULES REVIEW COMMISSION MEETING
MINUTES**

April 15, 2021

The Rules Review Commission met on Thursday, April 15, 2021 in the Commission Room at 1711 New Hope Church Road, Raleigh, North Carolina, and via WebEx. The Commissioners held a WebEx meeting to ensure compliance with Executive Orders limiting mass gatherings, and to encourage social distancing. The meeting was conducted in accordance with the provisions of G.S. 166A-19.24.

Commissioner Bob Rucho was present in the Commission Room. Commissioners present via WebEx were Andrew Atkins, Bobby Bryan, Margaret Currin, Jeanette Doran, Jeff Hyde, and Randy Overton.

Staff members present were Alex Burgos and Commission Counsel Amanda Reeder. Commission Counsel Amber May and Ashley Snyder were present via WebEx.

The meeting was called to order at 9:00 a.m. with Chair Doran presiding.

The Chair read the notice required by G.S. 138A-15(e) and reminded the Commission members that they have a duty to avoid conflicts of interest and the appearance of conflicts of interest.

The Chair read into the record the statement of economic interest for Senator Bob Rucho, which stated there was no actual conflict of interest or likelihood of conflict of interest.

APPROVAL OF MINUTES

The Chair asked for any discussion, comments, or corrections concerning the minutes of the March 18, 2021 meeting. There were none and the minutes were approved as distributed.

Upon the call of the Chair, the minutes was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

FOLLOW UP MATTERS

Department of Environmental Quality

01 NCAC 41C .0101, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0301, .0302, .0303; 41D .0101, .0102, .0201, .0202, .0301, .0302, and .0401 - The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

Coastal Resources Commission

15A NCAC 07H .0401, .0404, .0405, .0406; 07J .0403, .0404, .0405, .0406, .0407, .0409, .0410; and 07K .0207 - The agency is addressing the technical change requests from the March meeting. No action was required by the Commission.

State Board of Education

Prior to the review of the rule from the State Board of Education, Commissioner Hyde recused himself and did not participate in any discussion or vote concerning the rule because he is a member of two North Carolina Charter School Boards and the rules pertain to charters.

16 NCAC 06G .0508 - Upon the call of the Chair, the rule was approved by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

The Commission received over 10 letters of objection to 16 NCAC 06G .0508. Pursuant to G.S. 150B-21.3, the rule is subject to legislative review and a delayed effective date.

Building Code Council

Residential Code, N1101.13(R401.2) – In February, the Commission voted pursuant to G.S. 150B-21.9 to ask the Office of State Budget and Management (OSBM) to determine if the rule has a substantial economic impact and therefore requires a fiscal note. This rule will remain under the Commission’s review until after review by OSBM and subsequent action by the agency pursuant to G.S. 150B-21.12.

LOG OF FILINGS (PERMANENT RULES)

Plant Conservation Board

Upon the call of the Chair, 02 NCAC 48F .0301 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Department of Commerce - Division of Employment Security

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

04 NCAC 24D .0206 was withdrawn at the request of the agency. No action was required by the Commission.

Criminal Justice Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Sheriffs' Education and Training Standards Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Marine Fisheries Commission 15A NCAC 03O and 03R

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Wildlife Resources Commission

Upon the call of the Chair, the Commission waived Rule 26 NCAC 05 .0103 and allowed the submission of written comments submitted in letters of objection regarding the rules by a roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

The Commission received over 10 letters of objection to 15A NCAC 10D .0103. Pursuant to G.S. 150B-21.3, the rule is subject to legislative review and a delayed effective date.

Environmental Management Commission

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Marine Fisheries Commission 15A NCAC 18A

Upon the call of the Chair, the rules were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

Department of Transportation - Division of Motor Vehicles

Prior to the review of the rules from the Department of Transportation, Commissioner Bryan recused himself and did not participate in any discussion or vote concerning the rules because his family is involved in litigation with the agency.

19A NCAC 03C .0101, .0102, .0201, .0225, .0227, .0229, .0233, .0237, .0423, .0427, and .0431 – Upon the call of the Chair, the rules were approved by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

119A NCAC 03C .0202, .0220, .0221, .0222, .0223, .0224, .0226, .0228, .0232, .0235, .0420, .0421, .0424, .0425, .0426, .0428, .0432, .0433, .0436, .0501, .0521, and 03E .0401 - Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

19A NCAC 03C .0230, .0234, .0236, .0403, .0404, .0414, .0419, .0429, and .0520 - Upon the call of the Chair, the Commission objected to the rules in accordance with G.S. 150B-21.10 by roll-call vote, ayes 5, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 5. Voting in the negative: None.

- 19A NCAC 03C .0230: The Commission objected to this Rule for lack of statutory authority as powers of attorney and powers of a guardian are provided by the North Carolina General Statutes.
- 19A NCAC 03C .0234: The Commission objected to this Rule for ambiguity, finding that the overall intent of this Rule is unclear. To the extent this Rule is intended to provide that statutes are inapplicable to rules, the Commission found that it is beyond the authority of the agency.
- 19A NCAC 03C .0236: The Commission objected to this Rule for lack of statutory authority, finding that this Rule expands the exceptions set forth in G.S. 20-73.
- 19A NCAC 03C .0403: The Commission objected to this Rule for lack of statutory authority as there is no reference to van pools or van pool license plates in the cited authority.
- 19A NCAC 03C .0404: The Commission objected to this Rule for lack of statutory authority as the reference to “staggered registration” was repealed by S.L. 1993-761.
- 19A NCAC 03C .0414: The Commission objected to this Rule as being ambiguous, finding that it is unclear what is meant by “short periods.” Further, it is unclear as to when and how the Division will determine whether it will “license vehicles owned by nonresidents.” Finally, it is unclear what it means to “license” a vehicle.
- 19A NCAC 03C .0419: The Commission objected to this Rule for lack of statutory authority, finding that this Rule conflicts with G.S. 20-54 and G.S. 20-4.01.
- 19A NCAC 03C .0429: The Commission objected to this Rule for lack of statutory authority, finding that this Rule is addressed by or conflicts with G.S. 20-64.
- 19A NCAC 03C .0520: The Commission objected to this Rule for ambiguity, finding that the overall intent of this Rule is unclear as the term “for hire operations” does not appear to be used elsewhere in the agency’s rules or authorizing statutes. To the extent “for-hire” is necessary to implement or interpret Chapter 20 of the North Carolina General Statutes, this term is addressed by G.S. 20-4.01 in the definitions of “for-hire motor carrier” and “for-hire passenger vehicle.”

Board of Environmental Health Specialist Examiners

Upon the call of the Chair, the period of review was extended by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

State Human Resources Commission

Upon the call of the Chair, 25 NCAC 01E .0908 was approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

25 NCAC 01C .0405 was withdrawn at the request of the agency. No action was required by the Commission.

LOG OF FILINGS (TEMPORARY RULES)**Code Officials Qualification Board**

11 NCAC 08 .0735, and .0736 – Upon the call of the Chair, the Commission voted to approve 11 NCAC 08 .0735 and object to 11 NCAC 08 .0736 for failure to comply with the APA by roll-call vote, ayes 2, noes 4 as follows: Voting in the affirmative: Jeff Hyde and Bob Rucho – 2. Voting in the negative: Andrew Atkins, Bobby Bryan, Margaret Currin, and Randy Overton – 4. The motion failed.

Upon the call of the Chair, both rules were approved by roll-call vote, ayes 4, noes 3 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, and Randy Overton – 4. Voting in the negative: Jeanette Doran, Jeff Hyde, and Bob Rucho - 3.

Tom Felling with the Department of Justice, and representing the agency, addressed the Commission.

COMMISSION BUSINESS

Amendments to the Style Guide were approved by roll-call vote, ayes 6, noes 0 as follows: Voting in the affirmative: Andrew Atkins, Bobby Bryan, Margaret Currin, Jeff Hyde, Randy Overton, and Bob Rucho – 6. Voting in the negative: None.

The meeting adjourned at 10:01 a.m.

The next regularly scheduled meeting of the Commission is Thursday, May 20, 2021 at 9:00 a.m.

Alexander Burgos, Paralegal

Minutes approved by the Rules Review Commission:
Jeanette Doran, Chair

**Rules Review Commission Meeting April 15, 2021
Held Via WebEx**

Name	Agency
Brandi Salmon	DENR
Ben Edwards	Mathis Consulting
Elias Admassu	DES
Amy Mull	OAH extern
Beth Williams	DOI
Chrissy Waggett	Agriculture
Daron Barnes	WRC
Brenda Rivera	DOJ
Brandon Walker	DPI
Andrew Haines	DENT
Thomas Ziko	SBOE
Brian Mcrae	WRC
Denise Mazza	SHRC
Christian Waters	WRC

RULES REVIEW COMMISSION

Shannon Jenkins	DENR
Ashley Pekrul	WRC
Bradley Howard	WRC
Tom Felling	Code Officials
Jennifer Everett	DEQ
Helen Landi	DOT
Jacob Boyd	DENR
John Barkley	DOJ
Autumn Hanna	DOJ
Jessica Montie	DENR
Regina Adams	DES
Carrie Ruhlman	WRC
Phil Wilson	Agriculture
Lou Martin	SBOE
Charminique Williams	CJETS
Loretta Peace-Bunch	DOI
Diane Konopka	DOJ
Catherine Blum	DENR
Lori Wright	Agriculture

LIST OF APPROVED TEMPORARY RULES

April 15, 2021 Meeting

MANUFACTURED HOUSING BOARD

<u>Temporary Certificate</u>	11 NCAC 08 .0735
<u>FY 2020-2021 Special CE Requirement</u>	11 NCAC 08 .0736

LIST OF APPROVED PERMANENT RULES

April 15, 2021 Meeting

PLANT CONSERVATION BOARD

<u>Protected Plant Species List</u>	02 NCAC 48F .0301
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COMMERCE - EMPLOYMENT SECURITY, DIVISION OF

<u>Notice to Employer of Potential Charges</u>	04 NCAC 24D .0102
<u>Requirements for Requesting Noncharging of Benefit Payments</u>	04 NCAC 24D .0103
<u>Time for Filing Requests for Noncharging</u>	04 NCAC 24D .0104
<u>Determination on Requests for Noncharging</u>	04 NCAC 24D .0105
<u>Appealing Denial or Request for Noncharging</u>	04 NCAC 24D .0106
<u>Notice of Employer Quarterly Charges</u>	04 NCAC 24D .0201
<u>Requirements for Filing Protests to List of Charges</u>	04 NCAC 24D .0202
<u>Grounds for Protesting List of Charges</u>	04 NCAC 24D .0203
<u>Telephone Hearings Before the Board of Review</u>	04 NCAC 24F .0303
<u>In-Person Hearings</u>	04 NCAC 24F .0304

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Responsibilities of the School Director</u>	12 NCAC 09B .0202
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<u>Criminal Justice Instructor Training</u>	12 NCAC 09B .0209
<u>Evaluation for Training Waiver</u>	12 NCAC 09B .0403
<u>Minimum Training Specifications: Annual In-Service Training</u>	12 NCAC 09E .0105
<u>Instructor Training</u>	12 NCAC 09G .0414

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Terms and Conditions of Detention Officer Instructor Cert...</u>	12 NCAC 10B .0905
<u>Terms and Conditions of a Limited Lecturer Certification</u>	12 NCAC 10B .0909
<u>Terms and Conditions of Telecommunicator Instructor Certi...</u>	12 NCAC 10B .0915

MARINE FISHERIES COMMISSION

<u>Standards and Requirements for Shellfish Leases and Franc...</u>	15A NCAC 03O .0201
<u>Shellfish Lease Applications</u>	15A NCAC 03O .0202
<u>Marking Shellfish Leases and Franchises</u>	15A NCAC 03O .0204
<u>Permanent Secondary Nursery Areas</u>	15A NCAC 03R .0104
<u>Special Secondary Nursery Areas</u>	15A NCAC 03R .0105
<u>Oyster Sanctuaries</u>	15A NCAC 03R .0117

WILDLIFE RESOURCES COMMISSION

<u>Emergency Closures and Waivers</u>	15A NCAC 10A .1102
<u>Wildlife Taken for Depredations</u>	15A NCAC 10B .0106
<u>Attendance of Traps</u>	15A NCAC 10B .0110
<u>Permitted Archery Equipment</u>	15A NCAC 10B .0116
<u>Bear</u>	15A NCAC 10B .0202
<u>Deer (White Tailed)</u>	15A NCAC 10B .0203
<u>Wild Quail Management Areas</u>	15A NCAC 10B .0227
<u>Public Mountain Trout Waters</u>	15A NCAC 10C .0205
<u>Possession of Certain Fishes</u>	15A NCAC 10C .0211
<u>Largemouth Bass</u>	15A NCAC 10C .0305
<u>Striped Bass</u>	15A NCAC 10C .0314
<u>Trout</u>	15A NCAC 10C .0316
<u>Smallmouth Bass</u>	15A NCAC 10C .0321
<u>Alabama Bass and Spotted Bass</u>	15A NCAC 10C .0322
<u>Manner of Taking Nongame Fishes</u>	15A NCAC 10C .0401
<u>Taking Nongame Fishes for Bait or Personal Consumption</u>	15A NCAC 10C .0402
<u>General Regulations Regarding Use</u>	15A NCAC 10D .0102
<u>Hunting on Game Lands</u>	15A NCAC 10D .0103
<u>Brunswick County</u>	15A NCAC 10F .0305
<u>Wildlife Control Agent License Eligibility and Requirements</u>	15A NCAC 10H .1501
<u>Depredation Permits Issued by Wildlife Control Agents</u>	15A NCAC 10H .1502
<u>Manner of Take</u>	15A NCAC 10H .1503
<u>Records and Reporting Requirements</u>	15A NCAC 10H .1504
<u>Wildlife Control Agent License Renewal and Revocation</u>	15A NCAC 10H .1505
<u>Alligator Control Agent Certification Eligibility and Req...</u>	15A NCAC 10H .1506
<u>Additional Permit Requirements for Alligator Control Agents</u>	15A NCAC 10H .1507
<u>Alligator Control Agent Certification Eligibility and Req...</u>	15A NCAC 10H .1508
<u>Alligator Control Agent Certification Renewal and Revocation</u>	15A NCAC 10H .1509

Hunting on Wildlife Conservation Areas 15A NCAC 10J .0103

ENVIRONMENTAL MANAGEMENT COMMISSION

Definitions 15A NCAC 13B .1701
General Provisions for Structural Fill Facilities 15A NCAC 13B .1702
Notification for Structural Fill Facilities 15A NCAC 13B .1703
Siting for Structural Fill Facilities 15A NCAC 13B .1704
Design, Construction, and Operation for Structural Fill F... 15A NCAC 13B .1705
Closure of Structural Fill Facilities 15A NCAC 13B .1706
Recordation of Structural Fill Facilities 15A NCAC 13B .1707
Other Uses for Coal Combustion By-Products 15A NCAC 13B .1708
Storage and Containment of Coal Combustion By-Products 15A NCAC 13B .1709
Annual Reporting 15A NCAC 13B .1710
Requirements for Existing Structural Fills 15A NCAC 13B .1713

MARINE FISHERIES COMMISSION

Floors 15A NCAC 18A .0140
Walls and Ceilings 15A NCAC 18A .0141
Lighting 15A NCAC 18A .0142
Ventilation 15A NCAC 18A .0143
Premises 15A NCAC 18A .0146
Sewage Disposal 15A NCAC 18A .0150
Employees' Personal Articles 15A NCAC 18A .0154
Supply Storage 15A NCAC 18A .0155
Separation of Operations 15A NCAC 18A .0159
Raw Crustacea Receiving and Refrigeration 15A NCAC 18A .0160
Cooked Crustacea Refrigeration 15A NCAC 18A .0163
Delivery Window of Shelf 15A NCAC 18A .0167
Freezing 15A NCAC 18A .0169
Shipping 15A NCAC 18A .0170
Whole Crustacea or Crustacea Products 15A NCAC 18A .0171
Cooked Claw Shipping Conditions 15A NCAC 18A .0172
Recall Procedure 15A NCAC 18A .0179
Sampling and Testing 15A NCAC 18A .0180
Hazard Analysis 15A NCAC 18A .0188
HACCP Plan 15A NCAC 18A .0189
Sanitation Monitoring 15A NCAC 18A .0190
Standards for an Approved Shellfish Growing Area 15A NCAC 18A .0431
Laboratory Procedures 15A NCAC 18A .0704
Definitions 15A NCAC 18A .0901
Classification of Shellfish Growing Waters 15A NCAC 18A .0902
Sanitary Survey 15A NCAC 18A .0903
Approved Waters 15A NCAC 18A .0904
Conditionally Approved Waters 15A NCAC 18A .0905
Restricted Areas 15A NCAC 18A .0906
Prohibited Waters 15A NCAC 18A .0907
Unsurveyed Areas 15A NCAC 18A .0908

RULES REVIEW COMMISSION

<u>Buffer Zones</u>	15A NCAC 18A .0909
<u>Reclassification</u>	15A NCAC 18A .0910
<u>Public Health Emergency</u>	15A NCAC 18A .0913
<u>Laboratory Procedures</u>	15A NCAC 18A .0914

EDUCATION, STATE BOARD OF

<u>Charter Schools Application and Review Process</u>	16 NCAC 06G .0508
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TRANSPORTATION - MOTOR VEHICLES, DIVISION OF

<u>Purpose</u>	19A NCAC 03C .0101
<u>Forms</u>	19A NCAC 03C .0102
<u>Function</u>	19A NCAC 03C .0201
<u>Class of License Plate</u>	19A NCAC 03C .0225
<u>Date First Operated</u>	19A NCAC 03C .0227
<u>Signature</u>	19A NCAC 03C .0229
<u>Leased Vehicles</u>	19A NCAC 03C .0233
<u>Display of License Plate Renewal Sticker</u>	19A NCAC 03C .0237
<u>Self-Propelled Camping Vehicles</u>	19A NCAC 03C .0423
<u>Personalized Plates</u>	19A NCAC 03C .0427
<u>Purchase of Out-Of-State Vehicles: Removal of Plates</u>	19A NCAC 03C .0431

STATE HUMAN RESOURCES COMMISSION

<u>Eligibility</u>	25 NCAC 01E .0908
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CONTESTED CASE DECISIONS

This Section contains a listing of recently issued Administrative Law Judge decisions for contested cases that are non-confidential. Published decisions are available for viewing on the OAH website at <http://www.ncoah.com/hearings/decisions/>. If you are having problems accessing the text of the decisions online or for other questions regarding contested cases or case decisions, please contact the Clerk's office by email: oah.clerks@oah.nc.gov or phone 984-236-1850.

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
J. Randall May
David Sutton
Selina Malherbe

J. Randolph Ward
Stacey Bawtinheimer
Tenisha Jacobs
Michael Byrne
Karlene Turrentine

Year	Code	Number	Date Decision Filed	Petitioner		Respondent	ALJ
				Published			
20	DOJ	03445	3/31/2021	Jason Thomas Riley	v.	NC Sheriffs Education and Training Standards Commission	Ward
20	DOJ	03446	3/11/2021	Joseph Daniel Pilgreen	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
20	DOJ	03448	3/10/2021	Trey-Vaughn Xavier Lewis	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
20	DOJ	03451	3/25/2021	Rickie Lee Day	v.	NC Sheriffs Education and Training Standards Commission	Gray
20	DOJ	04152	3/19/2021	Lenisha Monique Ward	v.	NC Sheriffs Education and Training Standards Commission	Bawtinheimer
20	DOJ	04578	3/12/2021	Christopher Lee Jackson	v.	NC Criminal Justice Education and Training Standards Commission	Byrne
20	DOJ	05454	3/26/2021	Tracy Marie Nowak	v.	NC Sheriffs Education and Training Standards Commission	Byrne
20	DOL	01040	3/10/2021	ALMY LLC	v.	NC Department of Labor	May
20	DOL	03331	3/29/2021	Hycroft LLC	v.	NC DOL	Jacobs
20	INS	05271	3/9/2021	Carla Eisenberg	v.	North Carolina Department of State Treasurer	Malherbe
20	OSP	03292	3/17/2021	Leroy Williams	v.	Fayetteville State University	Lassiter
20	OSP	03751	3/3/2021	Sheerlene Artis-Carlton	v.	NC Division of Motor Vehicles	Bawtinheimer
20	SOS	03976	3/29/2021	Santino M East Sr	v.	NC Department of the Secretary of State	Jacobs

CONTESTED CASE DECISIONS

				<u>Unpublished</u>			
21	ABC	00077	3/25/2021; 3/26/2021	NC Alcoholic Beverage Control Commission	v.	Champs Lounge LLC T/A Champs Lounge	Byrne
20	CPS	03998	3/29/2021	Tawanda McKinney	v.	North Carolina Department of Public Safety Victim Services	May
21	CPS	00302	3/24/2021	Jennifer L Langley	v.	Townsend, Randol Preston Alexander Correctional Institution/NC DPS	May
20	CSE	04153	2/24/2021; 3/24/2021	Jimmy Danil Rayban	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04210	3/31/2021	Steven Taylor	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04227	3/25/2021	Dimetrius Hines	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Lassiter
20	CSE	04229	3/26/2021	Calvin Tyrone Norton	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	04387	3/5/2021	Morgan Sherman	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04391	3/29/2021	Charles Leapley	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Bawtinhimer
20	CSE	04613	3/31/2021	Matthew Richards	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04726	3/24/2021	Tara R Shantanu	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04780	3/2/2021	Donald Eister	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
20	CSE	04832	3/19/2021	Michael Shaddel	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
20	CSE	05319	3/2/2021	Travis L Davison	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
21	CSE	00001	3/30/2021	David A Daniels	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	CSE	00083	3/25/2021	David A Daniels	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Sutton
21	CSE	00086	3/11/2021	John W DiProfio Jr	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne
21	CSE	00409	3/9/2021	Johnnie Lucas III	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Byrne

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21	CSE	00415	3/17/2021	Romell A Smith	v.	NC Department of Health and Human Services, Division of Social Services, Child Support Enforcement	Malherbe
20	DHR	01607	3/8/2021	Patrice Wilson	v.	NC Department of Health and Human Services, Food and Nutrition Services	May
20	DHR	02490	3/29/2021	David Lane King	v.	NC Department of Health and Human Services	May
20	DHR	03043	3/3/2021	LaTrese Bristol	v.	NC Department of Health and Human Services, Division of Health Service Regulation, Mental Health Licensure and Certification	Mann
20	DHR	04357	3/3/2021	Mark Fatone	v.	Department of Health and Human Services	Ward
20	DHR	05041	3/15/2021	Shatiah Royal	v.	NC Department of Health and Human Services, Division of Child Development and Early Education	May
20	DHR	05333	3/31/2021	Lisa H Ferguson	v.	NC Department of Health and Human Services	May
20	DHR	05335	3/15/2021	Jennifer Jimenez	v.	Department of Social Services	May
21	DHR	00441	3/5/2021	Andrew Williams	v.	Department of Health and Human Services, Division of Health Service Regulation	Bawtinhimer
21	DHR	00655	3/25/2021	Wendy Lea Morgan	v.	Department of Health and Human Services, Division of Health Service Regulation	Byrne
20	EHR	03062	3/3/2021	Kathryn Surratt Baker David Earl Baker II	v.	Division of Environmental Quality DS0-20-005	Mann
20	EHR	05131	3/11/2021	WASCO LLC	v.	North Carolina Department of Environmental Quality	Ward
21	INS	00167	3/23/2021	Paula W Tate	v.	North Carolina State Health Plan	Sutton
20	SOS	04225	3/3/2021; 3/4/2021	Ashley Brooke Kornegay	v.	Department of the Secretary of State	Bawtinhimer