NORTH CAROLINA REGISTER

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December 1, 2022

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PUBLISHED BY
The Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
Telephone 984-236-1850
Fax 984-236-1947

Donald R. van der Vaart, Director
Ashley B. Snyder, Codifier of Rules
Dana McGhee, Publications Coordinator
Cathy Matthews-Thayer, Editorial Assistant
Julie B. Eddins, Register Drafter

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 — 984-236-1850
Raleigh, North Carolina 27609 — 984-236-1947 FAX

contact:	Ashley B. Snyder, Codifier of Rules	ashley.snyder@oah.nc.gov	984-236-1941
	Dana McGhee, Publications Coordinator	dana.mcghee@oah.nc.gov	984-236-1937
	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 — 984-236-1850
Raleigh, North Carolina 27609 — 984-236-1947 FAX

contact:	Brian Liebman, Commission Counsel	brian.liebman@oah.nc.gov	984-236-1948
	Lawrence Duke, Commission Counsel	lawrence.duke@oah.nc.gov	984-236-1938
	William W. Peaslee, Commission Counsel	bill.peaslee@oah.nc.gov	984-236-1939
	Seth M. Ascher, Commission Counsel	seth.ascher@oah.nc.gov	984-236-1934
	Alexander Burgos, Paralegal	alexander.burgos@oah.nc.gov	984-236-1940
	Julie B. Eddins, 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: Julie Ventaloro, Economic Analyst — osbmruleanalysis@osbm.nc.gov — 984-236-0694

NC Association of County Commissioners
215 North Dawson Street — 919-715-2893
Raleigh, North Carolina 27603
contact: Amy Bason — amy.bason@ncacc.org

NC League of Municipalities — 919-715-2925
424 Fayetteville Street, Suite 1900
Raleigh, North Carolina 27601
contact: Monica Jackson — mjackson@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building
300 North Salisbury Street — 919-733-2578
Raleigh, North Carolina 27611 — 919-715-5460 FAX

Jason Moran-Bates, Staff Attorney
Chris Saunders, Staff Attorney
Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER

Publication Schedule for January 2022 – December 2022

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	270th day from publication in the Register
36:13	01/03/22	12/08/21	01/18/22	03/04/22	03/21/22	04/21/2022	05/01/22	09/30/22
36:14	01/18/22	12/22/21	02/02/22	03/21/22	04/20/22	05/19/2022	06/01/22	10/15/22
36:15	02/01/22	01/10/22	02/16/22	04/04/22	04/20/22	05/19/2022	06/01/22	10/29/22
36:16	02/15/22	01/25/22	03/02/22	04/18/22	04/20/22	05/19/2022	06/01/22	11/12/22
36:17	03/01/22	02/08/22	03/16/22	05/02/22	05/20/22	06/16/2022	07/01/22	11/26/22
36:18	03/15/22	02/22/22	03/30/22	05/16/22	05/20/22	06/16/2022	07/01/22	12/10/22
36:19	04/01/22	03/11/22	04/16/22	05/31/22	06/20/22	07/21/2022	08/01/22	12/27/22
36:20	04/18/22	03/25/22	05/03/22	06/17/22	06/20/22	07/21/2022	08/01/22	01/13/23
36:21	05/02/22	04/08/22	05/17/22	07/01/22	07/20/22	08/18/2022	09/01/22	01/27/23
36:22	05/16/22	04/25/22	05/31/22	07/15/22	07/20/22	08/18/2022	09/01/22	02/10/23
36:23	06/01/22	05/10/22	06/16/22	08/01/22	08/22/22	09/15/2022	10/01/22	02/26/23
36:24	06/15/22	05/24/22	06/30/22	08/15/22	08/22/22	09/15/2022	10/01/22	03/12/23
37:01	07/01/22	06/10/22	07/16/22	08/30/22	09/20/22	10/20/2022	11/01/22	03/28/23
37:02	07/15/22	06/23/22	07/30/22	09/13/22	09/20/22	10/20/2022	11/01/22	04/11/23
37:03	08/01/22	07/11/22	08/16/22	09/30/22	10/20/22	11/17/2022	12/01/22	04/28/23
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37:11	12/01/22	11/07/22	12/16/22	01/30/23	02/20/23	03/16/2023	04/01/23	08/28/23
37:12	12/15/22	11/22/22	12/30/22	02/13/23	02/20/23	03/16/2023	04/01/23	09/11/23

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

October 25, 2022

EXECUTIVE ORDER NO. 271

GROWING NORTH CAROLINA'S ZERO-EMISSION VEHICLE MARKET

WHEREAS, N.C. Const. art. XIV, § 5 establishes that it is the policy of the state to conserve and protect its lands and waters for the benefit of all its people, and that it is a proper function of the state to control and limit the pollution of our air and water, and in every other appropriate way to preserve as a part of the common heritage of this state, its forests, wetlands, estuaries, beaches, historical sites, open lands, and places of beauty; and

WHEREAS, North Carolina's transition to a clean energy future will create good-paying jobs, reduce harmful emissions, and protect our environment; and

WHEREAS, medium- and heavy-duty ("MHD") vehicles, ranging from delivery trucks and school buses to public transit buses and semi-trucks, support the connectivity, safety, and livelihoods of North Carolinians and underpin the state's leading economy; and

WHEREAS, automakers are rapidly increasing investments in the production of zero-emission vehicles ("ZEVs"); and

WHEREAS, by 2025 or earlier, many MHD ZEVs are expected to be more affordable to own and operate than internal combustion engine ("ICE") vehicles, not even accounting for government subsidies and other policy supports, according to the 2022 ZEV Task Force Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Action Plan; and

WHEREAS, by 2030, MHD ZEVs are expected to be more affordable to own and operate than ICE vehicles for applications in all weight classes, not even accounting for government subsidies and other policy supports; and

WHEREAS, a growing number of businesses have committed to transitioning their vehicle fleets to ZEVs to remain economically competitive, mitigate fluctuating gas and diesel prices, save money, meet sustainability goals, and recruit and retain talent; and

WHEREAS, with its skilled workforce and renowned business environment, North Carolina is a national hub for MHD vehicle manufacturing and supply chain development and is well positioned to lead the market-driven transition to ZEVs already underway; and

WHEREAS, by adopting policies to grow the MHD ZEV market, North Carolina will create good-paying jobs, grow the economy, enhance consumer choice, and lower the cost to consumers by expanding access to increasingly more affordable vehicles; and

WHEREAS, North Carolina risks limiting access to cheaper and cleaner MHD ZEVs by not joining the six other states, representing approximately 20% of the nation's trucking fleet, that

have established a MHD ZEV sales requirement and the several other states actively pursuing a sales requirement; and

WHEREAS, according to the 2020 Air Quality Trends in North Carolina report, MHD ICE vehicles are responsible for emitting 26% of smog-forming nitrogen oxide emissions, 32% of particulate matter, and a significant portion of other hazardous air pollutants from on-road motor vehicle traffic in the state, though they comprise only 3.2% of North Carolina's registered vehicles; and

WHEREAS, air pollution from buses and trucks predominantly powered by diesel engines worsens asthma and other cardio-respiratory illnesses, especially in children and older adults, increases heart attacks and strokes, and contributes to other negative health impacts including premature death; and

WHEREAS, the 2022 North Carolina Greenhouse Gas ("GHG") Inventory found that the transportation sector is the state's largest source of GHG emissions, responsible for nearly 40% of gross statewide emissions, and MHD ICE vehicles are the second largest source of transportation related GHG emissions after passenger cars and trucks; and

WHEREAS, climate change and the cumulative impacts of multiple sources of pollution disproportionately affect people of color, low-income communities, and indigenous communities, and efforts to reduce these effects must promote environmental justice and health equity while ensuring the meaningful engagement of the people who are disproportionately impacted and giving them a greater voice in decision-making processes; and

WHEREAS, in July 2020, the undersigned joined the Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Memorandum of Understanding to reduce pollution and grow the MHD ZEV market by striving to achieve sales shares of 30% by 2030 and 100% no later than 2050; and

WHEREAS, the North Carolina Department of Environmental Quality ("NCDEQ") is investing $93.5 million across the state in electric vehicle charging infrastructure and the replacement of buses and on-road heavy-duty equipment with cleaner alternatives through the Volkswagen Settlement program; and

WHEREAS, North Carolina has already received $109 million through the Infrastructure Investment and Jobs Act ("IIJA") to invest in electric vehicle charging infrastructure; and

WHEREAS, the IIJA and the Inflation Reduction Act of 2022 authorize billions of dollars in tax credit, loan, grant, and other funding programs to accelerate the growth of the domestic MHD ZEV market and the state will be applying for funding to invest in additional ZEV infrastructure and other market needs; and

WHEREAS, in January 2022, the undersigned issued Executive Order No. 246 establishing new GHG reduction and ZEV adoption goals, and directing the state to identify pathways to achieve those goals including developing a North Carolina Clean Transportation Plan to recommend actionable strategies for decarbonizing the transportation sector; and

WHEREAS, accelerating the growth of the MHD ZEV market will contribute to North Carolina's clean energy, environmental justice, and climate objectives by reducing emissions from the most polluting vehicles on the road while generating local economic development and good-paying jobs in a quickly growing sector; and

Statutory Authority and Determinations

WHEREAS, Advanced Clean Trucks ("ACT") is a motor vehicle emissions standard program that directs certain manufacturers to sell an increasing percentage of ZEVs to reduce the overall emissions their vehicles emit; and

WHEREAS, adopting ACT in North Carolina will significantly help the state reduce its emissions of criteria pollutants; and

WHEREAS, N.C. Const. art. III, § I provides that the executive power of the state shall be vested in the Governor; and

WHEREAS, pursuant to N.C. Gen. Stat. § 147-12(a)(l), it is the Governor's duty to supervise the official conduct of all executive and ministerial officers; and

WHEREAS, pursuant to N.C. Gen. Stat. § 143B-4, the Governor is responsible for formulating and administering the policies of the executive branch of the state government.

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

Section 1. Advanced Clean Trucks Rule

NCDEQ shall establish a North Carolina Advanced Clean Trucks program requiring manufacturers to sell an increasing percentage of MHD ZEVs over time and shall propose that rule for consideration by the Environmental Management Commission no later than May 15, 2023. NCDEQ shall collaborate with local governments, environmental justice organizations, underserved communities, automobile manufacturers, motor fleet owners, electric utilities, the North Carolina Utilities Commission ("NCUC"), public health experts, environmental organizations, and other interested stakeholders in developing the proposed rule and the associated regulatory impact analysis.

Section 2. Distribution of State and Federal Funds

Cabinet agencies shall pursue and invest eligible federal and state funding, in a manner consistent with applicable law, toward growing the MHD ZEV market in North Carolina, including but not limited to investing in charging infrastructure, vehicle purchase incentives, workforce development, demonstration projects, technical assistance, and increased monitoring of mobile source air pollution. Cabinet agencies shall prioritize investments that support strategies outlined in Section 3 of this Executive Order and the investment priorities identified in Section 10 of Executive Order No. 246.

Section 3. Complementary Strategies

All Cabinet agencies implicated by this Executive Order, including but not limited to NCDEQ, the North Carolina Department of Transportation ("NCDOT"), and the North Carolina Department of Commerce, shall work with stakeholders to identify and implement strategies that complement the adoption of the North Carolina ACT program and support an affordable and reliable transition to ZEVs in the MHD sector. In carrying out this section, Cabinet agencies shall prioritize strategies identified in the North Carolina Clean Transportation Plan as well as strategies that further environmental justice and equity, such as creating economic development opportunities for women- and minority-owned businesses; increasing affordability and access to MHD ZEVs in underserved communities; and improving health outcomes for communities disproportionately impacted by transportation-related air pollution.

Section 4. Public Health and Health Equity

The North Carolina Department of Health and Human Services ("NCDHHS") shall work to increase understanding and awareness of the disproportionate health impacts of transportation-related emissions, including emissions from MHD vehicles, on underserved communities and people of color. Specifically, NCDHHS shall:

a. Research and publish a report on the health and environmental justice impacts of transportation-related air pollutants in North Carolina.
b. Include the best available air quality data in the NCDHHS Environmental Health Data Dashboard.

c. Incorporate environmental justice metrics in the NCDHHS Environmental Health Data Dashboard, as informed by the North Carolina Environmental Public Health Tracking Advisory Committee.
d. Develop a mechanism for notifying community stakeholders about funding opportunities to address the disproportionate health impacts of transportation-related emissions.

In carrying out this section NCDHHS shall engage NCDEQ and other cabinet agencies, local health departments, community organizations, research institutions and other stakeholders, and shall work to ensure any relevant findings inform the implementation of Section 2 and Section 3 of this Executive Order and other state and local efforts to prioritize emission reduction activities.

Section 5. Zero-Emission Vehicle Infrastructure Needs Assessment

NCDOT, in partnership with NCDEQ, the NCUC, and other Cabinet agencies, shall develop a North Carolina ZEV Infrastructure Needs Assessment ("Needs Assessment") that evaluates charging and fueling needs to support successful implementation of the North Carolina ACT program and the achievement of ZEV adoption targets established in Executive Order No. 246. The Needs Assessment shall include, but is not limited to, an evaluation of the number, type, distribution, and cost of chargers and other fueling stations needed to achieve North Carolina's ZEV goals while accounting for the importance of ensuring a convenient, reliable, affordable, and equitable ZEV infrastructure network throughout the state including rural areas. The Needs Assessment shall be completed for the N.C. Climate Change Interagency Council to submit to the Governor within eleven (11) months of the signing of this Executive Order.

Section 6. State Motor Fleet ZEV Transition

As part of their ongoing efforts to implement Section 7 of Executive Order No. 80, Cabinet agencies shall prioritize ZEVs in the purchase or lease of new MHD vehicles with a gross vehicle weight rating greater than 8,500 pounds. To support implementation of this directive, the North Carolina Department of Administration shall seek to add MHD ZEVs to state term contracts for its replacement vehicle program and shall report on its efforts to support this directive into the agency's annual North Carolina Motor Fleet ZEV Plan as appropriate.

Section 7. Environmental Stewardship Initiative

NCDEQ shall enhance the Environmental Stewardship Initiative by further recognizing and supporting companies and facilities that demonstrate leadership in reducing their transportation-related footprint, including by increasing the share of MHD ZEVs in their vehicle fleets.

Section 8. Annual Reporting

By October 15, 2023, and annually thereafter, Cabinet agencies shall incorporate implementation updates on Executive Order No. 246, this Executive Order, and the Climate Risk and Resilience Plan into the North Carolina Climate Change Interagency Council's annual status report to the Governor required by Executive Order No. 80.

Section 9. No Private Right of Action

This Executive Order is not intended to create, and does not create, any individual right, privilege, or benefit, whether substantive or procedural, enforceable at law or in equity by any party against the State of North Carolina, its agencies, departments, political subdivisions, or other entities, or any officers, employees, or agents thereof, or any other person.

Section 10. Savings Clause

If any provision of this Executive Order or its application to any person or circumstances is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 11. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until rescinded or replaced with a superseding 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 25th day of October in the year of our Lord two thousand and twenty-two.

Roy Cooper
Governor

ATTEST:

Elaine F. Marshall
Secretary of State

State of North Carolina

ROY COOPER
GOVERNOR

November 1, 2022

EXECUTIVE ORDER NO. 272

ESTABLISHING THE GOVERNOR'S COMMISSION ON THE GOVERNANCE OF PUBLIC UNIVERSITIES IN NORTH CAROLINA

WHEREAS, North Carolinians continually strive to be better educated, healthier, and more financially secure so they may live purposeful and abundant lives; and

WHEREAS, the 17 institutions in the University of North Carolina System are responsible for educating 244,500 students annually, employ thousands of North Carolinians, and have an estimated economic impact of $27.9 billion on the state; and

WHEREAS, the University of North Carolina System is a national leader in scientific and social science research, bringing in billions of dollars in grants to North Carolina; and

WHEREAS, the research and discoveries from the University of North Carolina System's campuses save lives, result in innovations that improve lives, and enable the creation of new businesses that add jobs and economic value to the state; and

WHEREAS, the University of North Carolina System's campuses are located throughout the state and use the services of many private sector businesses, all of which add significantly to the economy of the state; and

WHEREAS, Article IX, Section 8 of the North Carolina Constitution makes clear that a public university system is a fundamental part of the composition of the State of North Carolina; and

WHEREAS, Article IX, Section 9 of the North Carolina Constitution instructs that the benefits of this system be extended, as far as practicable, to the people of the state free of expense; and

WHERAS, North Carolina has been a national leader in public higher education since the University of North Carolina at Chapel Hill became the first public university in the nation to open its doors in 1795; and

WHEREAS, in 1971, the General Assembly passed legislation consolidating the University of North Carolina into a sixteen-campus system, with a constituent high school added in 2007, and establishing a board of governors to govern the system (the "Board of Governors"); and

WHEREAS, each institution has a board of trustees which advises its Chancellor and the Board of Governors on matters concerning the institution, and is comprised of members selected by the Board of Governors and General Assembly; and

WHEREAS, the University of North Carolina System is dedicated to the service of North Carolina and its people; and

WHEREAS, the University of North Carolina System is the state's crown jewel by virtue of the system's excellent academic reputation, training of North Carolina's workforce, and advancement of health care, agriculture, and technology; and

WHEREAS, the University of North Carolina System includes five (5) Historically Black Colleges and Universities that have been recognized nationally for their academic programs and general excellence; and

WHEREAS, a stable, affordable, high-quality public university system is critical to the educational and economic future of North Carolina and its residents; and

WHEREAS, in 1971 when the University of North Carolina System was formed, and again in 1991, the General Assembly sought to ensure, through legislation, that the members of the Board of Governors of the University of North Carolina System would be diverse in terms of experience and thought, and that the board would include North Carolinians from various backgrounds; and

WHEREAS, such diversity of experience and thought in members of the governing board is consistent with the very nature of an institution focused on higher learning; and

WHEREAS, pursuant to Article III of the North Carolina Constitution and N.C. Gen. Stat. §§ 143A-4 and 143B-4, the Governor is the chief executive officer of the state and is responsible for formulating and administering the policies of the executive branch of state government; and

WHEREAS, the undersigned, as the state's Chief Executive Officer, seeks recommendations on how to ensure that the composition of the Board of Governors of the University of North Carolina System and the Board of Trustees of each constituent institution is reflective of the diversity of the state and is best suited to assure the success of the University of North Carolina System in the 21st century; and

WHEREAS, a diverse commission comprised of members from various backgrounds who reflect the regional, ethnic, racial, gender, and political diversity of the state will assist in identifying the best governance strategies to improve the quality of higher education for all students in North Carolina.

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

Section 1: Establishment and Purpose

a. The Governor's Commission on the Governance of Public Universities in North Carolina ("Commission") is hereby established. The Commission is charged with evaluating the current governance structure of the University of North Carolina System and of each constituent institution and making recommendations to the Office of the Governor on how to improve existing governance, by recommending 1) who should appoint the members of the Board of Governors and the members of each Board of Trustees; 2) how to ensure that the composition of the Board of Governors and each Board of Trustees reflects the regional, ethnic, racial, gender, gender, political, and economic diversity of the state; and 3) a proposed set of principles and responsibilities that should apply to members of the Board of Governors and members of each Board of Trustees.

b. Commissioners shall deliver a report to the Office of the Governor no later than eight (8) months from the date of this Executive Order providing the assessment and

recommendations specified in Section 1(a) herein and making any additional recommendations as requested by the Governor regarding support for and oversight of the State's public universities.

Section 2: Duties

The Commission shall have the following duties and functions:

a. Engage subject matter experts who can provide information to the Commission on the status of public university governance in North Carolina and best practices elsewhere.

b. Receive testimony from individuals with experience and perspective on the governance structure of the University of North Carolina System and of each constituent institution.

c. Make recommendations, consistent with Section 1, regarding the structure and composition of the Board of Governors and the Board of Trustees, including who should make appointments to these governing bodies.

Section 3: Membership

a. The Commission shall be comprised of at least fifteen (15) members appointed by the Governor. These members shall include individuals with (i) experience with the University System; (ii) general experience with higher education governance; (iii) experience with higher education governance best practices; or (iv) other relevant experience that would be valuable to the Commission.

b. All members will serve at the pleasure of the Governor.

c. The Governor shall select co-Chairs and a Vice Chair from the members serving on the Commission. The Commission may elect other officers as it deems necessary.

Section 4. Meetings and Quorum

The Commission shall meet at least four (4) times before producing the report identified in Section 1 and shall also meet upon the call of one of the Commission Chairs, the call of the Commission Vice Chair if a Commission Chair position is vacant, or upon the written request of a majority of the Commission members. A simple majority of the Commission's members shall constitute a quorum to conduct official business.

Section 5. Administration

a. The Commission may create sub-committees.

b. The Office of the Governor shall provide staff and administrative support services for the Commission.

c. Commission members shall serve without compensation but may receive a per diem allowance and reimbursement for travel and subsistence expenses from available state funds in accordance with state law and Office of State Budget and Management policies and regulations.

Section 6. Effect and Duration

This Executive Order is effective immediately and shall remain in effect until December 31, 2024, unless otherwise extended, modified, or rescinded by subsequent 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 the 1st day of November, in the year of our Lord two thousand twenty-two.

Roy Cooper
Governor

ATTEST:

Rodney S. Maddox
Chief Deputy Secretary of State

North Carolina License and Theft Bureau

PUBLIC NOTICE

This serves as a notice pursuant to G.S. § 20-288 of a license application submission by a manufacturer, factory branch, factory representative, distributor, distributor branch, or distributor representative that has not been previously issued a license by the Division.

Applicant's Name: Royal Electric Vehicles, LLC

Applicant's Address: 632 Richardson Road SE, Calhoun, GA 30701

Application Date: 7/20/2022

Names and titles of any individual listed on the application as an owner, partner, member or officer of the applicant:

Jason Torchia member

Stephanie Segarra member

Marine Fisheries Commission
Rescheduled Public Hearing

The Marine Fisheries Commission had technical difficulties with the public hearing on proposed rules 15A NCAC 03M .0101 and 18A .0911 scheduled for November 1, 2022, at 6 p.m. via WebEx with a listening station at the Division of Marine Fisheries Central District Office, 5285 Highway 70 West, Morehead City, NC 28557. The public hearing on these rules is rescheduled for December 16, 2022, at 1 p.m. at the same location; no virtual access will be provided. The public comment period for these rules, which currently runs through December 2, 2022, will be extended until December 16, 2022, at 5 p.m. The proposed rules were published in the N.C. Register, Volume 37, Issue 07, Pages 540-542.

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

TITLE 10A – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice *is hereby given in accordance with G.S. 150B-21.2 that the Commission for Public Health intends to adopt the rules cited as 10A NCAC 41C .1001-.1007.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://cph.dph.ncdhhs.gov/*

Proposed Effective Date: *April 1, 2023*

Public Hearing:
Date: *January 13, 2023*
Time: *10:00 a.m.*
Location: *This public hearing will be held by teleconference at (919) 715-0769 (no access code required).*

Reason for Proposed Action: *The proposed rules implement Session Law 2021-180, Section 9G.8.(a), which directs the Commission for Public Health (CPH) to adopt rules as necessary to implement requirements for the testing and remediation of lead in drinking water in public schools and the inspection for and abatement of asbestos and lead-based paint hazards in public schools and licensed child care facilities. CPH previously adopted these rules under temporary procedures and is now proposing to adopt them permanently.*

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

Comment period ends: *January 30, 2023*

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 984-236-1850.

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 41 - EPIDEMIOLOGY HEALTH

SUBCHAPTER 41C - OCCUPATIONAL HEALTH

SECTION .1000 – LEAD AND ASBESTOS INSPECTION, TESTING, ABATEMENT, AND REMEDIATION IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES

10A NCAC 41C .1001 DEFINITIONS

For the purposes of this Section, the following definitions shall apply:

(1) "Department" means the North Carolina Department of Health and Human Services.
(2) "Licensed child care facility" means a child care facility as defined at G.S. 110-86(3).
(3) "Public school" means a public school unit as defined at G.S. 115C-5(7a).
(4) "Program" means the North Carolina Department of Health and Human Services, Division of Public Health, Environmental Health Section.
(5) "Responsible individual" means the superintendent of a public school operated by a local school administrative unit, as defined in G.S. 115C-5(6), or the superintendent's designee(s); the governing body of any charter school or school operated under Article 7A or Article 9C of G.S. 115C or that body's designee(s); or the operator of a licensed child care facility or the operator's designee(s), as applicable.

Authority S.L. 2021-180, s. 9G.8.

10A NCAC 41C .1002 FUNDING

(a) Public schools and licensed child care facilities in North Carolina shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting testing for lead in water and inspections for asbestos and lead-based paint hazards, when a test for lead in water is conducted by May 1, 2024 ~~within 24 months after the effective date of this Rule~~ or an inspection for lead-based paint or asbestos is conducted by May 1, 2024 ~~within 18 months~~

~~after the effective date of this Rule~~ and the test or inspection is conducted in accordance with the rules of this Section.

(b) Public schools and licensed child care facilities that are eligible to participate under Paragraph (a) of this Rule shall also be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. to fully or partially offset the cost of conducting remediation of lead in water and abatement of asbestos and lead-based paint hazards identified under this Section when the following requirements are met:

(1) lead or asbestos is detected that meets the requirements under the rules of this Section for abatement or remediation;

(2) the abatement or remediation, as applicable, is performed in accordance with the rules of this Section; and

(3) replacement materials used to abate asbestos hazards do not contain more than 1 percent asbestos and replacement materials used to abate lead-based paint hazards do not contain lead in excess of 90 parts per million.

(c) Notwithstanding Paragraphs (a) and (b) of this Rule, licensed child care centers conducting testing and remediation of water outlets used for drinking or food preparation pursuant to 15A NCAC 18A .2816 shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. for testing conducted in accordance with that Rule by May 1, 2024 ~~within 24 months after the effective date of this Rule~~ and remediation conducted in accordance with that Rule between May 1, 2020 ~~24 months prior to the effective date of this Rule~~ and the date on which funds are no longer available in accordance with S.L. 2021-180, s. 9G.8.(d).

(d) Notwithstanding Paragraphs (a) and (b) of this Rule, if asbestos or lead-based paint is detected during a capital, renovation, or repair project in a public school or licensed child care facility, the public school or licensed child care facility shall be eligible to participate in the funding mechanisms established in accordance with S.L. 2021-180, s. 9G.8. as follows:

(1) to fully or partially offset the cost of conducting an inspection in accordance with Rules .1003(b) or .1004(b) of this Section, as applicable, except that the inspection may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted; and

(2) to fully or partially offset the cost of conducting abatement when lead-based paint or asbestos is detected that meets the requirements under the Rules of this Section for abatement and abatement is conducted in accordance with Rules .1003(e) and .1004(e) of this Section and with the limitation on materials set out in Subparagraph (b)(3) of this Rule, except that the abatement may be limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted.

(e) Inspections and abatements described in Paragraph (d) of this Rule that are limited to the area in the public school or licensed child care facility where the capital, renovation, or repair project is being conducted shall not satisfy the facility-wide inspection requirements for public schools and licensed child care facilities set out in Rules .1003 and .1004 of this Section.

(f) Notwithstanding the foregoing, to be eligible to participate in any funding mechanism under this Rule, responsible individuals shall make all records regarding testing, inspection, abatement, and remediation available to the Department upon request, including, but not limited to, itemized expense reports for activities funded under S.L. 2021-180, s. 9G.8.

(g) Nothing in this Rule shall require the Department to provide funding if the Department determines there are not sufficient funds available in accordance with S.L. 2021-180, s. 9G.8.(d).

Authority S.L. 2021-180, s. 9G.8.

10A NCAC 41C .1003 ASBESTOS INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES

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

(1) "Abatement" means as defined at G.S. 130A-444(4), and also includes renovation activities that are carried out to repair, maintain, remove, isolate, enclose, replace, or encapsulate asbestos containing material. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by an air monitor in accordance with 40 C.F.R. 763.90(i).

(2) "Air monitor" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(3).

(3) "Asbestos" means as defined at G.S. 130A-444(2).

(4) "Asbestos containing material" means as defined at G.S. 130A-444(3).

(5) "Asbestos hazard" means a condition that results in exposure to asbestos in excess of the standards set forth in 10A NCAC 41C .0607(a) or to a category of asbestos containing material defined at 40 C.F.R. 763.88(b)(1)-(6).

(6) "Inspection" in a licensed child care facility means an examination of the facility for the presence of asbestos hazards that is conducted by an inspector in accordance with the rules of Section .0600 of this Subchapter. "Inspection" in a public school means a reinspection conducted in alignment with G.S. 130A-445, 10A NCAC 41C .0604, and 40 C.F.R.763.85(b).

(7) "Inspector" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(7).

(8) "Management Planner" means as defined at G.S. 130A-447 and 10A NCAC 41C .0601(a)(9).

(b) Each responsible individual shall ensure that an inspection is conducted for asbestos hazards in each public school or licensed child care facility for which he or she is responsible by May 1,

2024. ~~within 18 months of the effective date of this Rule.~~ Inspections for asbestos hazards shall be performed by an inspector and documented in an inspection survey report in accordance with the rules of Section .0600 of this Subchapter. A management planner shall review the inspection survey report to determine whether an asbestos hazard has been detected and shall document his or her findings in an asbestos management plan in accordance with Rule 10A NCAC 41C .0604.

(c) If the management planner determines that an asbestos hazard has been detected, then the responsible individual shall restrict access to the identified asbestos hazard until it is abated in accordance with this Rule.

(d) A determination by a management planner that an asbestos hazard is present in a public school or licensed child care facility that is documented in an asbestos management plan in accordance with Paragraph (b) of this Rule shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that asbestos is detected that meets the requirements for abatement.

(e) Abatement shall be performed by one or more professionals who are accredited in accordance with 10A NCAC 41C .0602 and shall be performed in accordance with the rules of Section .0600 of this Subchapter.

(f) The information listed in this Paragraph shall be submitted to the Program by email to ARPA-Reimbursement@dhhs.nc.gov: ~~general.hccu@dhhs.nc.gov:~~

(1) Within 45 calendar days following the date on which an inspection is completed pursuant to this Rule, the management planner shall ~~submit:~~ report the following:
  (A) the name, address, email address, and phone number of the responsible individual;
  (B) the name, address, email address, phone number, and accreditation number of the management planner;
  (C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
  (D) whether the facility for which the responsible individual is submitting the information is a public school or a licensed child care facility;
  (E) whether the inspection identified the presence of an asbestos hazard;
  (F) a description of any identified asbestos hazard; and
  (G) the results of any laboratory testing conducted during the inspection.

(2) If the public school or licensed child care facility plans to use a previous inspection or documentation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection survey report, reinspection report, or management plan associated with the previous inspection or the documentation by May 1, 2024 ~~within 18 months after the effective date of this Rule~~ in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.

(3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall ~~submit:~~ report the following:
  (A) the name, address, email address, and phone number of the responsible individual;
  (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;
  (C) the ~~names, addresses, email addresses, phone numbers,~~ names and accreditation numbers of the professionals who will conduct the abatement ~~abatement;~~ and the email address and phone number of the on-site asbestos supervisor who will oversee the abatement;
  (D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility; and
  (E) the dates on which the abatement is scheduled to occur. ~~occur; and~~
  ~~(F) a description of the planned abatement.~~

(4) Within 45 calendar days following the date on which an abatement completed pursuant to this Rule, the responsible individual shall ~~submit:~~ report the following:
  (A) the name, address, email address, and phone number of the responsible individual;
  (B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;
  (C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;
  (D) the date on which the abatement was completed; and
  (E) a report of the results of the final clearance inspection.

(g) In accordance with 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable, licensed child care facilities shall inspect for asbestos hazards in accordance with this Rule to ensure these facilities are safe and free from hazards that may injure children. The failure of a responsible individual in licensed child care facility to inspect for asbestos hazards or to restrict access to or abate identified asbestos hazards in accordance with this Rule shall be considered a violation of 10A NCAC 09 .0601 and 10A NCAC 09 .1719, as applicable.

(h) The requirements of Paragraph (b) of this Rule shall be considered met if:

(1) the public school or licensed child care facility previously completed an inspection of its buildings that meets the requirements of Section .0600 of this Subchapter, provided that building material that was sampled during a previous inspection and reported as trace asbestos or between 0 percent and 10 percent asbestos content shall be reinspected in accordance with the process established in Paragraphs (b) - (f) of this Rule; ~~or~~

(2) the public school or licensed child care facility produces documentation ~~is produced~~ in accordance with 40 C.F.R. 763.99(a)(7); or ~~763.99(a)(7).~~

(3) the licensed child care facility produces a property tax record that shows the building occupied by the licensed child care facility was built after October 12, 1988.

Authority S.L. 2021-180, s. 9G.8.

10A NCAC 41C .1004 LEAD-BASED PAINT INSPECTIONS AND ABATEMENT IN NORTH CAROLINA PUBLIC SCHOOLS AND LICENSED CHILD CARE FACILITIES

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

(1) "Abatement" means as defined at 40 C.F.R. 745.223, and also includes interim controls as defined at 40 C.F.R. 745.83. Abatement shall not be considered complete until a final clearance inspection of the public school or licensed child care facility is performed by a certified risk assessor in accordance with the standards set forth at 40 C.F.R. 745.227. ~~745.85(b).~~

(2) "Certified Project Designer" means an individual who meets the requirements for a project designer as set forth in G.S. 130A-453.03 and Rule .0802 of this Subchapter.

(3) "Certified Supervisor" means an individual who meets the requirements for a supervisor as set forth in G.S. 130A-453.03 and Rule .0802 of this Subchapter.

(4) "Certified Risk Assessor" means an individual who meets the requirements for a risk assessor as set forth in G.S. 130A-453.03 and Rule .1006 of this Section.

(5) "Inspection" means a risk assessment conducted in accordance with 40 C.F.R. 745.223.

(6) "Inspection report" means a summary prepared in accordance with Rule .0807(b) of this Subchapter.

(7) "Lead-based paint hazard" means as defined at G.S. 130A-131.7(6).

(8) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7).

(9) "Occupant protection plan" means as defined at Rule .0801(a)(6) of this Subchapter.

(b) Each responsible individual shall ensure that an inspection is conducted for lead-based paint hazards in each public school or licensed child care facility for which he or she is responsible by May 1, 2024. ~~within 18 months of the effective date of this Rule.~~ Inspections for lead-based paint hazards shall be performed by a certified risk assessor and documented in an inspection report. The certified risk assessor shall determine whether a lead-based paint hazard is present in the public school or licensed child care facility based on the inspection, in accordance with the rules of Sections .0800 and .0900 of this Subchapter, and document the determination in the inspection report. If the certified risk assessor determines that a lead-based paint hazard exists, then an occupant protection plan shall be written by a certified supervisor or certified project designer in accordance with 40 C.F.R. 745.227(e)(5) and the rules of Section .0800 of this Subchapter.

(c) If the certified risk assessor determines that a lead-based paint hazard has been detected, then the responsible individual shall restrict access to the identified lead-based paint hazard until abated in accordance with this Rule.

(d) A determination by a certified risk assessor that a lead-based paint hazard is present in the public school or licensed child care facility that is documented in the inspection report in accordance with Paragraph (b) of this Rule shall satisfy the requirement of Rule .1002(b)(1) or (d)(2) of this Section, as applicable, that lead is detected that meets the requirements for abatement.

(e) Abatement shall be performed by one or more professionals who are certified in accordance with G.S. 130A-453.03 and Rules .0802 or .0902 of this Subchapter and shall be performed in accordance with the rules of Sections .0800 and .0900 of this Subchapter, as applicable.

(f) The information listed in this Paragraph shall be submitted to the Program by email to ARPA-Reimbursement@dhhs.nc.gov: ~~general.hccu@dhhs.nc.gov:~~

(1) Within 45 calendar days following the date on which an inspection is completed pursuant to the Rule, the certified risk assessor shall ~~submit:~~ report the following:

(A) the name, address, email address, and phone number of the responsible individual;

(B) the name, address, email address, phone number, and certification number of the certified risk assessor;

(C) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;

(D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;

(E) whether the inspection identified the presence of a lead-based paint hazard;

(F) a description of any identified lead-based paint hazard; and

(G) the results of any laboratory testing conducted during the inspection.

(2) If the public school or licensed child care facility plans to use a previous inspection or a signed attestation under Paragraph (h) of this Rule, then the responsible individual shall submit a copy of the inspection report ~~or occupant protection plan~~ associated with the previous inspection or the signed attestation by May 1, 2024 ~~within 18 months from the effective date of this Rule~~ in lieu of meeting the requirements in Subparagraph (f)(1) of this Rule.

(3) At least 10 calendar days before abatement conducted pursuant to this Rule begins, the responsible individual shall ~~submit:~~ report the following:

(A) the name, address, email address, and phone number of the responsible individual;

(B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility, as applicable;

(C) the ~~names, addresses, email addresses, phone numbers,~~ names and certification numbers of the professionals who will conduct the abatement ~~abatement;~~ the ~~names, addresses, email addresses, phone numbers,~~ and the email address and phone number of the on-site lead supervisor who will oversee the abatement;

(D) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility; and

(E) the dates on which the abatement is scheduled to occur. ~~occur; and~~

~~(F) a description of the planned abatement.~~

(4) Within 45 calendar days following the date on which abatement is completed pursuant to this Rule, the responsible individual shall ~~submit:~~ report the following:

(A) the name, address, email address, and phone number of the responsible individual;

(B) the name and address, including county, of the individual school and the public school unit or the licensed child care facility;

(C) whether the facility for which the responsible individual is submitting the report is a public school or a licensed child care facility;

(D) the date on which the abatement was completed; and

(E) a report of the results of the final clearance inspection.

(g) In accordance with 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), and 10A NCAC 09 .1707(2), as applicable, licensed child care facilities shall inspect for lead-based paint hazards in accordance with this Rule to ensure these facilities are free from lead poisoning hazards. The failure of a responsible individual in licensed child care facility to inspect for lead-based paint hazards or to restrict access to or abate identified lead-based paint hazards in accordance with this Rule shall be considered a violation of 15A NCAC 18A .2816(a), 10A NCAC 09 .0601(f), or 10A NCAC 09 .1707(2), as applicable.

(h) The requirements of Paragraph (b) of this Rule shall be considered met if:

(1) the public school or licensed child care facility has previously completed an inspection of its buildings that meets the requirements of Sections .0800 and .0900 of this Subchapter; or

(2) the responsible individual of a public school or licensed child care facility located in a building that was built after February 28, 1978 signs a statement attesting that no lead-based paint was used in the building.

Authority S.L. 2021-180, s. 9G.8.

10A NCAC 41C .1005 LEAD POISONING HAZARDS IN DRINKING WATER IN NORTH CAROLINA PUBLIC SCHOOLS

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

(1) "Lead poisoning hazard" means as defined at G.S. 130A-131.7(7)(g).

(2) "Testing" means the process described in Subparagraphs (b)(1)-(4) of this Rule.

(3) "Remediation" means as defined at G.S. 130A-131.7(15).

(b) The following actions shall be taken to ensure that drinking water in public schools are free of identified lead poisoning hazards:

(1) Responsible individuals at public schools shall complete a one-time test of all water outlets used for drinking or food preparation. The responsible individual shall provide documentation of testing results for review by the Department during routine sanitation inspections under Rule 15A NCAC 18A .2402(a).

(2) Initial water samples shall be collected by the responsible individual and tested in accordance with Subparagraph (b)(3) of this Rule by May 1, 2024. ~~within 24 months after the effective date of this Rule.~~

(3) The responsible individual shall collect samples and submit them for testing in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is hereby incorporated by reference, including any subsequent editions or

amendments, and available free of charge at: https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water. Notwithstanding the foregoing guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.

(4) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission in alignment with the requirements of G.S. 130A-131.8.

(5) When a public school receives test results from a laboratory indicating that a water sample collected by the responsible individual contains a lead concentration at or above the lead poisoning hazard level, the responsible individual shall:

(A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level;

(B) ensure that all students and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food preparation; and

(C) continue to follow Parts (b)(5)(A) - (B) of this Rule until the Department determines in accordance with Subparagraph (b)(10) of this Rule that the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the responsible individual and the Department of Public Instruction in writing of this determination.

(6) If a water sample collected by the responsible individual reveals a water lead level at or above the lead poisoning hazard level then the requirement of Rule .1002(b)(1) of this Section shall be considered met.

(7) Within five business days of receiving the test results of a water analysis that shows a water lead level at or above the lead poisoning hazard level, the responsible individual shall provide written notification of the test results to the parents or legal guardians of the children attending the public school and the staff of the public school in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(3) of this Rule.

(8) Within five business days of receiving the test results of a water analysis that shows a water lead level at or above the lead poisoning hazard level, the public school shall make the test results available to the public, free of charge. The responsible individual may post test results to the public school's website to satisfy the requirement to make the test results available to the public.

(9) Remediation of water outlet(s) producing water lead levels at or above the lead poisoning hazard level shall ensure that water produced is below the lead poisoning hazard level and may include replacement of service lines, pipes, and fixtures and the installation of filters at affected faucets. Within 30 business days from the date on which remediation is conducted under this Rule, the responsible individual shall submit the following information to the Program:

(A) the name and contact information of the responsible individual;

(B) the name and address, including county, of the public school;

(C) the steps taken to remediate the lead poisoning hazard; and

(D) the date on which the remediation was completed.

(10) Remediation shall not be considered complete until the Department conducts sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level to confirm that the remediated water outlet is no longer producing water lead levels at or above the lead poisoning hazard level.

Authority S.L. 2021-180, s. 9G.8.

10A NCAC 41C .1006 CERTIFIED RISK ASSESSORS

(a) For the purposes of this Section, a certified risk assessor is defined as an individual who meets the requirements of Rule .0802 of this Subchapter, except that the individual shall be required to complete an accredited refresher course for risk assessors every 36 months from the date of completion of initial training or last training instead of every 24 months as set forth in 10A NCAC 41C .0802(b).

(b) A certified risk assessor who is certified under Paragraph (a) of this Rule shall be considered a certified risk assessor solely for the purposes of conducting inspections ~~and determinations about the existence of lead-based paint hazards~~ in public schools and licensed child care facilities under Rule .1004 of this Section.

Authority G.S. 130A-453.03; 130A-453.05; S.L. 2021-180, s. 9G.8.

10A NCAC 41C. 1007 INCORPORATION BY RFERENCE

For the purposes of this Section, 40 C.F.R. 763, Subpart E and 40 C.F.R. 745, Subparts L and E are hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at www.ecfr.gov/.

Authority S.L. 2021-180, s. 9G.8.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice *is hereby given in accordance with G.S. 150B-21.2 that the Criminal Justice Education and Training Standards Commission intends to adopt the rules cited as 12 NCAC 09C .0311; 09G .0210, .0211 and amend the rules cited as 12 NCAC 09B .0305; 09G .0102.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/*

Proposed Effective Date: *May 1, 2023*

Public Hearing:
Date: *February 22, 2023*
Time: *10:00 a.m.*
Location: *Wake Technical Community College, Public Safety Training Center, 321 Chapanoke Road, Raleigh, NC 27502*

Reason for Proposed Action: *To ensure consistency with the rules previously passed with respect to Minimum Standards for Law Enforcement Officers, and also to address the need for changes with respect to the reporting of drug screening results for correctional officers and probation/parole officers as requested by the Department of Public Safety. Additionally, to provide qualifying criteria for recertification following separation by Juvenile Justice Officers and Court Counselors, and provide renewal requirements for Specialized Instructors consistent across the training disciplines.*

Comments may be submitted to: *Michelle Schilling, NC Department of Justice, Criminal Justice Standards Division, PO Drawer 149, Raleigh, NC 27602-0149; phone (919) 779-8205; email MSchilling@ncdoj.gov*

Comment period ends: *February 22, 2023*

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 984-236-1850.

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 09 - CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

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

SECTION .0300 - MINIMUM STANDARDS FOR CRIMINAL JUSTICE INSTRUCTORS

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

(a) An applicant meeting the requirements for Specialized Instructor Certification as set forth in Rule .0304 of this Section shall be issued a certification to expire three years from the date of issuance. The applicant shall apply for certification as a Specialized Instructor within 60 days after the date the applicant achieved a passing score on the state comprehensive exam for the respective Specialized Instructor training course.

(b) Where certification for both General Probationary Instructor as set forth in Rule .0303 of this Section and Specialized Instructor Certification are issued on the same date, the instructor is required to instruct, within three years after certification, a minimum of 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. The instructor may satisfy the teaching requirement for the General Probationary Instructor certification by teaching any specialized topic for which certification has been issued.

(c) When Specialized Instructor Certification is issued during an existing period of General Probationary Instructor Certification, the specialized instructor may satisfy the teaching requirement for the General Probationary Certification by teaching the specialized subject for which certification has been issued.

(d) The term of certification as a specialized instructor shall be three years. An application for renewal shall contain, in addition to the requirements listed in Rule .0304 of this Section, documentary evidence that the applicant has remained active in the instructional process during the previous three-year period. Such documentary evidence shall include the following:

(1) proof that the applicant has, within the three-year period preceding application for renewal, instructed at least 12 hours in each of the topics for which Specialized Instructor Certification was granted, and that instruction was provided in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005. Acceptable documentary evidence shall include official

Commission records submitted by School Directors or In-Service Training Coordinators and written certification from a School Director or In-Service Training Coordinator;

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

(A) a favorable written recommendation from a School Director or In-Service Training Coordinator completed on a Commission Renewal of Instructor and Professional Lecturer Certification Form (Form F-12 ~~A~~) stating the instructor taught at least 12 hours in each of the topics for which Specialized Instructor Certification was granted. The teaching shall have been provided in a Commission-accredited basic training, Specialized Instructor Training course, pursuant to Rule 12 NCAC 09C .0401, Commission-recognized in-service training course, or training course delivered pursuant to 12 NCAC 09F .0101, 12 NCAC 09H, 12 NCAC 10B .0601, .1302, or .2005;

(B) a favorable written evaluation by a School Director, Qualified Assistant, In-Service Training Coordinator, or another Specialized Instructor certified in the same specialized subject, based on an on-site classroom evaluation of a presentation by the instructor in a Commission-accredited basic training, Specialized Instructor Training, Commission-recognized in-service training course, or in-service training course delivered pursuant to 12 NCAC 10B .0601, .1302, or .2005 during the three-year period of Specialized Instructor Certification. Such evaluation shall be certified on a Criminal Justice Instructor Evaluation Form F-16, located on the agency's website: http://www.ncdoj.gov/getdoc/c2eba6aa-12bc-4303-bf4b-5fa0431ef5a1/F-16-6-11.aspx;

(C) proof that the applicant has met the requirement set forth in Rule .0303(d) of this Section;

(D) proof that the individual applying for renewal as a Specialized Firearms Instructor has achieved a minimum score of 92 on the day and night Basic Law Enforcement Training firearms qualification courses, administered by a certified Specialized Firearms Instructor, within the three-year period preceding the application for renewal;

(E) proof that the individual applying for renewal as a Specialized Physical Fitness Instructor has passed the Basic Law Enforcement Training Police Officer Physical Abilities Test, administered by a certified Specialized Physical Fitness Instructor, within the three-year period preceding the application for renewal.

(F) proof that the individual applying for renewal as a Specialized Driver Instructor has achieved the following minimum scores in accordance with the procedural and evaluative requirements listed in the "Course Description Packet (CDP) for Driver Instructor Certification Renewal" as published by the North Carolina Justice Academy within the three-year period preceding the application for renewal:

(i) minimum score of 85 on two out of three attempts for the "Off-Set Lane Maneuver" and "Serpentine" courses during the daytime;

(ii) a minimum score of 85 on two out of three attempts for the "Precision" course during both day and night evaluation;

(iii) a score of "Pass" on two out of three attempts for each command for the "Evasive Action/Maneuver" course during the daytime;

(iv) a score of Pass on two out of three attempts in each direction for the "Fixed Radius Curve" course during the daytime; and

(v) evaluations will be administered by a certified Specialized Driving Instructor.

(G) proof that the individual applying for renewal as a Specialized SCAT Instructor has satisfactorily completed the technique evaluations skills of the Basic Law Enforcement Training

SCAT courses, administered by a certified Specialized SCAT Instructor, within the three-year period preceding the application for renewal.

(e) Certification as a Specialized Instructor in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topic areas as outlined in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) of this Section shall remain in effect for 36 months from the date of issuance. During the 36 month term all non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas shall be maintained.

(f) Those individuals who have previously held Specialized Instructor Certification and have not exceeded a three year time period from when his or her Specialized Instructor Certification expired are eligible to reapply for re-issuance of the previously held Specialized Instructor Certification. An application for re-issuance shall contain documentation that the applicant:

(1) holds a current General Instructor certification;
(2) has completed all pre-qualification requirements for that specialty;
(3) has passed the state examination for that specialty with a minimum score of 75;
(4) has completed eight hours of evaluated instruction in the specialty where re-issuance of certification is taught, as documented on an F-16 located on the agency's website: https://ncdoj.gov/law-enforcement training/criminal-justice/forms-and-publications/. The eight hours of instruction shall be taught within 60 days of the Specialized Instructor Certification being reissued and evaluated by a Specialized Instructor certified in that specialty. Failure to complete the required eight hours of evaluated instruction will result in the reissued Specialized Instructor Certification being revoked; and
(5) has maintained non-Commission certificates required in Rule .0304(d)(1), (g)(2), (i)(1), and (j)(1) for Specialized Instructor certification in the First Responder, Physical Fitness, Explosive and Hazardous Materials, and Juvenile Justice Medical Emergencies topical areas.

(g) Applicants for re-issuance of the Specialized Instructor Certification shall have one opportunity to pass the prequalification skills assessment and the state examination for that specialty. Should an applicant not achieve a passing score on either the prequalification skills assessment or the state examination for that specialty, the applicant shall complete the specific Specialized Instructor Course in its entirety.

(h) Applicants whose Specialized Instructor Certification is suspended or revoked shall not qualify for re-issuance. The applicant shall complete the specific Specialized Instructor Course in its entirety.

(i) The use of guest participants in a delivery of the "Basic Law Enforcement Training Course" shall be permissible. However, such guest participants are subject to the on-site supervision of a Commission-certified instructor and shall be authorized by the School Director. A guest participant shall be used only to complement the primary certified instructor of the block of instruction and shall not replace the primary instructor.

Authority G.S. 17C-6.

SUBCHAPTER 09C - ADMINISTRATION OF CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS

SECTION .0300 - CERTIFICATION OF CRIMINAL JUSTICE OFFICERS

12 NCAC 09C .0311 RECERTIFICATION FOLLOWING SEPARATION

(a) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with a minimum of one year of service who have been separated from the North Carolina Department of Public Safety for less than three years may have their certification reinstated following a reverification of employment standards as outlined in 12 NCAC 09B .0116 and .0117, but are exempt from the job appropriate basic training course as described in 12 NCAC 09B .0200.

(b) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers with less than one year of service who have been separated from the North Carolina Department of Public Safety for less than two years may have their certification reinstated following a reverification of employment standards as outlined in 12 NCAC 09B .0116 and .0117, and shall complete the job appropriate basic training course as described in 12 NCAC 09B .0200.

(c) Previously certified juvenile court counselors, Chief Court Counselors, and juvenile justice officers who have been separated from the North Carolina Department of Public Safety for more than three years, upon their return shall complete the verification of employment standards as outlined in 12 NCAC 09B .0116 and .0117 and shall complete the job appropriate basic training course described in 12 NCAC 09B .0200.

Authority G.S. 17C-2; 17C-6; 17C-10.

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

SECTION .0100 - SCOPE, APPLICABILITY, AND DEFINITIONS

12 NCAC 09G .0102 DEFINITIONS

The following definitions apply throughout this Subchapter only:

(1) "Commission of an offense" means a finding by the North Carolina Criminal Justice Education and Training Standards Commission or an administrative body that a person performed the acts necessary to satisfy the elements of a specified offense.
(2) "Convicted" or "Conviction" means, the entry of:
(a) a plea of guilty;

(b) a verdict or finding of guilt by a jury, judge, magistrate, or other duly constituted, established adjudicating body, tribunal, or official, either civilian or military; or

(c) a plea of no contest, nolo contendere, or the equivalent.

(3) "Correctional Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, responsible for the custody of inmates or offenders.

(4) "Corrections Officer" means either or both of the two classes of officers employed by the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice: correctional officer or probation/parole officer.

(5) "Criminal Justice System" means the whole of the State and local criminal justice agencies including the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice.

(6) "Director" means the Director of the Criminal Justice Standards Division of the North Carolina Department of Justice.

(7) "Educational Points" means points earned toward the State Correction Officers' Professional Certificate Program for studies completed, with passing scores achieved, for semester hour or quarter hour credit awarded from colleges or universities accredited by the Department of Education of the state in which the institution is located, from an accredited body recognized by either the U.S. Department of Education or the Council for Higher Education Accreditation, or from the state university of the state in which the institution is located ~~at a regionally accredited institution of higher education~~. Each semester hour of college credit equals one educational point and each quarter hour of college credit equals two-thirds of an educational point.

(8) "High School" means a high school that meets the compulsory attendance requirements in the jurisdiction in which the school is located.

(9) "In-Service Training Coordinator" means a person designated by a Criminal Justice Agency head to administer the agency's In-Service Training program.

(10) "Misdemeanor" ~~for corrections officers~~ means those criminal offenses not classified under the laws, statutes, or ordinances as felonies. Misdemeanor offenses ~~for corrections officers~~ are classified by the Commission as ~~the following as set forth in G.S. or other state or federal law:~~ follows:

(a) "Class A Misdemeanor" means a misdemeanor committed or omitted in violation of any common law, duly-enacted ordinance, or criminal statute of this State that is not classified as a Class B Misdemeanor pursuant to Sub-item (24)(b) of this Rule. Class A Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of not more than six months. Excluded from "Class A Misdemeanor" criminal offenses for jurisdictions other than North Carolina are motor vehicle or traffic offenses designated as misdemeanors under the laws of other jurisdictions or duly enacted ordinances of an authorized governmental entity, with the exception of the offense of impaired driving that is included herein as a Class A Misdemeanor if the offender could have been sentenced for a term of not more than six months. Also included herein as a Class A Misdemeanor is the offense of impaired driving, if the offender was sentenced under punishment level three G.S. 20-179(i), level four G.S. 20-179(j), or level five G.S. 20-179(k). Class A Misdemeanor shall also include acts committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, or criminal statute of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of not more than six months.

(b) "Class B Misdemeanor" means an act committed or omitted in violation of any common law, criminal statute, or criminal traffic code of this State that is classified as a Class B Misdemeanor as set forth in the Class B Misdemeanor Manual as published by the North Carolina Department of Justice, incorporated herein by reference, and shall include any later amendments and editions of the incorporated material as provided by

G.S. 150B-21.6. The publication is available from the Commission's website: http://www.ncdoj.gov/getdoc/60bb12ca-47c0-48cb-a0e3-6095183c4c2a/Class-B-Misdemeanor-Manual-2005.aspx. Class B Misdemeanor also includes any act committed or omitted in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of any jurisdiction other than North Carolina, either civil or military, for which the maximum punishment allowable for the designated offense under the laws, statutes, or ordinances of the jurisdiction in which the offense occurred includes imprisonment for a term of more than six months but not more than two years. Excluded from this grouping of "Class B Misdemeanor" criminal offenses for jurisdictions other than North Carolina, are motor vehicle or traffic offenses designated as being misdemeanors under the laws of other jurisdictions with the following exceptions: Class B Misdemeanor includes the following:

(i) either first or subsequent offenses of driving while impaired if the maximum allowable punishment is for a term of more than six months but not more than two years;

(ii) driving while license permanently revoked or permanently suspended;

(iii) those traffic offenses occurring in other jurisdictions which are comparable to the traffic offenses specifically listed in the Class B Misdemeanor Manual; and

(iv) an act committed or omitted in North Carolina prior to October 1, 1994, in violation of any common law, duly enacted ordinance, criminal statute, or criminal traffic code of this State for which the maximum punishment allowable for the designated offense included imprisonment for a term of more than six months but not more than two years.

~~(a) 14-2.5 Punishment for attempt (offenses that are Class A-1 misdemeanor)~~

~~(b) 14-32.1(f) Simple Assault on handicapped persons~~

~~(c) 14-33(b)(9) Assault, battery against sports official~~

~~(d) 14-33(c) Assault, battery with circumstances~~

~~(e) 14-34 Assault by pointing a gun~~

~~(f) 14-72 Larceny of property; receiving stolen goods etc.; not more than one thousand dollars ($1000.00)(14-72(a))~~

~~(g) 14-72.1 Concealment of merchandise (14-72.1(e); third or subsequent offense)~~

~~(h) 14-76 Larceny, mutilation, or destruction of public records/papers~~

~~(i) CH 14 Art. 19A False/fraudulent use of credit device (14-113.6)~~

~~(j) CH 14 Art. 19B Financial transaction card crime~~

~~(k) 14-114(a) Fraudulent disposal of personal property on which there is a security interest~~

~~(l) 14-118 Blackmailing~~

~~(m) 14-118.2 Obtaining academic credit by fraudulent means (14-118.2(b))~~

~~(n) 14-122.1 Falsifying documents issued by a school (14-122.1(c))~~

~~(o) 14-127 Willful and wanton injury to real property~~

~~(p) 14-160 Willful and wanton injury to personal property greater than two hundred dollars ($200.00)(14-160(b))~~

~~(q) 14-190.5 Preparation of obscene photographs~~

~~(r) 14-190.9 Indecent Exposure~~

~~(s) 14-190.14 Displaying material harmful to minors (14-190.14(b))~~

~~(t) 14-190.15 Disseminating harmful material to minors (14-190.15(d))~~

~~(u) 14-202.2 Indecent liberties between children~~

~~(v) 14-204 Prostitution~~

~~(w) 14-223 Resisting officers~~

~~(x) 14-225(a) False, etc., reports to law enforcement agencies or officers~~

~~(y) 14-230 Willfully failing to discharge duties~~

~~(z) 14-231 Failing to make reports and discharge other duties~~

(aa)	14-232	Swearing falsely to official records
(bb)	14-239	Allowing prisoners to escape; punishment
(cc)	14-255	Escape of working prisoners from custody
(dd)	14-256	Prison breach and escape
(ee)	14-258.1(b)	Furnishing certain contraband to inmates
(ff)	14-259	Harboring or aiding certain persons; misdemeanants
(gg)	CH 14 Art. 34	Persuading inmates to escape; harboring fugitives (14-268)
(hh)	14-269.2	Weapons on campus or other educational property (14-269.2(d), (e) and (f))
(ii)	14-269.3(a)	Weapons where alcoholic beverages are sold and consumed
(jj)	14-269.4	Weapons on state property and in courthouses
(kk)	14-269.6	Possession and sale of spring loaded projectile knives prohibited (14-269.6(b))
(ll)	14-277	Impersonation of a law enforcement or other public officer verbally, by displaying a badge or insignia, or by operating a red light (14-277 (d1) and (e))
(mm)	14-277.2(a)	Weapons at parades, etc., prohibited
(nn)	14-277.3A	Stalking
(oo)	14-288.2(b)	Riot
(pp)	14-288.2(d)	Inciting to riot
(qq)	14-288.6(a)	Looting; trespassing during emergency
(rr)	14-315(a)	Selling or giving weapons to minors
(ss)	14-315.1	Storage of firearms to protect minors
(tt)	14-316.1	Contributing to delinquency
(uu)	14-318.2	Child abuse
(vv)	14-360(a)	Cruelty to animals
(ww)	14-361	Instigating or promoting cruelty to animals
(xx)	14-401.14	Ethnic intimidation; teaching any technique to be used for
(yy)	14-454(a) or (b)	Accessing computers less than $1000 in damages
(zz)	14-458	Computer trespass (Damage less than two thousand five hundred dollars)($2500.00)
(aaa)	15A-287	Interception and disclosure of wire etc. communications
(bbb)	15B-7(b)	Filing false or fraudulent application for compensation award
(ccc)	18B-902(c)	False statements in application for ABC permit (18B-102(b))
(ddd)	20-37.8(a) & (c)	Fraudulent use of a fictitious name for a special identification card
(eee)	20-102.1	False report of theft or conversion of a motor vehicle
(fff)	20-111(5)	Fictitious name or address in application for registration
(ggg)	20-130.1	Use of red or blue lights on vehicles prohibited (20-130.1(e))
(hhh)	20-137.2	Operation of vehicles resembling law enforcement vehicles (20-137.2(b))
(iii)	20-138.1	Driving while impaired (punishment level 1 (20-179(g)) or 2 (20-179(h))
(jjj)	20-138.2(c)	Impaired driving in commercial vehicle
(kkk)	20-141.5(a)	Speeding to elude arrest
(lll)	20-166(b)	Duty to stop in event of accident or collision
(mmm)	20-166(c)	Duty to stop in event of accident or collision
(nnn)	20-166(c1)	Duty to stop in event of accident or collision
(ooo)	50B-4.1(a)	Knowingly violating valid protective order
(ppp)	58-33-105	False statement in applications for insurance
(qqq)	58-81-5	Careless or negligent setting of fires
(rrr)	14-111.4	Misuse of 911 system
(sss)	90-95(d)(2)	Possession of schedule II, III, IV
(ttt)	90-95(d)(3)	Possession of Schedule V
(uuu)	90-95(d)(4)	Possession of Schedule VI (when punishable as Class 1 misdemeanor)
(vvv)	90-95(e)(4)	Conviction of 2 or more violations of Art. 5
(www)	90-95(e)(7)	Conviction of 2 or more violations of Art. 5
(xxx)	90-113.22	Possession of drug paraphernalia (90-113.22(b))
(yyy)	90-113.23	Manufacture or delivery of drug paraphernalia (90-113.23(c))
(zzz)	97-88.2(a)	Misrepresentation to get worker's compensation payment

less than four hundred dollars ($400.00)

(aaaa) 108A-39(a) Fraudulent misrepresentation of public assistance

(bbbb) 108A-53 Fraudulent misrepresentation of electronic food and nutrition benefits

(cccc) 108A-64 Medical assistance recipient fraud; less than four hundred dollars ($400.00)(108-64(c)(2))

(dddd) 108A-80 Recipient check register/list of all recipients of AFDC and state county special assistance (108A-80(b))

(eeee) 108A-80 Recipient check register/ list of all recipients of AFDC and state county special assistance; political mailing list (108A-80(c))

(ffff) 113-290.1(a)(2) Criminally negligent hunting; no bodily disfigurement

(gggg) 113-290.1(a)(3) Criminally negligent hunting; bodily disfigurement

(hhhh) 113-290.1(a)(4) Criminally negligent hunting; death results

(iiii) 113-290.1(d) Criminally negligent hunting; person convicted/suspended license

(jjjj) 143-58.1(a) Use of public purchase or contract for private benefit (143-58.1(c))

(kkkk) 148-45(d) Aiding escape or attempted escape from prison

(llll) 162-55 Injury to prisoner by jailer

(mmmm) Common Law misdemeanors:

(i) Going Armed to the Terror of the People

(ii) Common Law Mayhem

(iii) False Imprisonment

(iv) Common Law Robbery

(v) Common Law Forgery

(vi) Common Law Uttering of Forged paper

(vii) Forcible Trespass

(viii) Unlawful Assembly

(ix) Common Law Obstruction of Justice

(nnnn) Those offenses occurring in other jurisdictions that are comparable to the offenses specifically listed in (a) through (rrrr) of this Rule.

(oooo) Any offense proscribed by 18 U.S.C. 922 (1996), (http://www.gpo.gov/fdsys/pkg/USCODE-2011-title18/pdf/USCODE-2011-title18-partI-chap44-sec922.pdf), that would prohibit possessing a firearm or ammunition.

(11) "Pilot Courses" means those courses approved by the Education and Training Committee, consistent with 12 NCAC 09G .0404, which are used to develop new training course curricula.

(12) "Probation/Parole Officer" means an employee of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice, whose duties include supervising, evaluating, or otherwise instructing offenders placed on probation, parole, post release supervision, or assigned to any other community-based program operated by the Division of Adult Correction and Juvenile Justice.

(13) "Qualified Assistant" means an additional staff person designated as such by the School Director to assist in the administration of a course when a certified institution or agency assigns additional responsibilities to the certified School Director during the planning, development, and implementation of a certified course.

(14) "School" means an institution, college, university, academy, or agency that offers penal or corrections training for correctional officers or probation/parole officers. "School" includes the corrections training course curricula, instructors, and facilities.

(15) "School Director" means the person designated by the Secretary of the North Carolina Department of Public Safety, Division of Adult Correction and Juvenile Justice to administer the School.

(16) "Standards Division" means the Criminal Justice Standards Division of the North Carolina Department of Justice.

(17) "State Corrections Training Points" means points earned toward the State Corrections Officers' Professional Certificate Program by completion of Commission-approved corrections training courses. Twenty classroom hours of Commission-approved corrections training equals one State Corrections training point.

Authority G.S. 17C-2; 17C-6; 17C-10; 153A-217.

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

12 NCAC 09G .0210 BACKGROUND INVESTIGATION

(a) Prior to employment, the North Carolina Department of Adult Correction shall complete a background investigation on all applicants for certification. The investigation shall examine the

applicant's character traits and habits relevant to performance as a correctional officer or probation/parole officer and shall determine whether the applicant is of good moral character.

(b) The background investigation will consist of the following:

(1) verification of age;

(2) verification of education; and

(3) criminal history check of local, state, and national files;

(4) personal interview;

(c) The employing agency shall include a signed and notarized Release Authorization Form that authorizes the Division staff to obtain documents and records pertaining to the applicant for certification that may be required in order to determine whether certification may be granted.

Authority G.S. 17C-6.

12 NCAC 09G .0211 AGENCY REPORTING OF DRUG SCREENING RESULTS

(a) Every correctional or probation/parole officer shall have produced a negative result on a drug screen administered according to the following specifications:

(1) the drug screen shall be a urine test consisting of an initial screening test using an immunoassay method and a confirmatory test on an initial positive result using a gas chromatography/mass spectrometry (GC/MS) or other initial and confirmatory tests authorized or mandated by the Department of Health and Human Services for Federal Workplace Drug Testing Programs;

(2) a chain of custody shall be maintained on the specimen from collection to the eventual discarding of the specimen. If the specimen is handled only by a medical professional or a third party provider and the laboratory utilizes federally mandated chain of custody procedures, then the agency does not need an inter-agency chain of custody procedure. If agency staff will be handling the urine specimen at any point, then the agency needs a firmly established chain of custody procedure;

(3) the drug screen shall test for the presence of at least cannabis, cocaine, phencyclidine (PCP), opiates, and amphetamines or their metabolites; and

(4) the test threshold values meet the requirements established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs, as found in 82 FR 7920 (2017) incorporated by reference, including later amendments and editions found at no cost at https://www.federalregister.gov/documents/2017/01/23/2017-00979/mandatory-guidelines-for-federal-workplace-drug-testing-programs;

(5) conduct the test within 90 days of certification;

(6) the laboratory conducting the test shall be certified for federal workplace drug testing programs, and shall adhere to applicable federal rules, regulations, and guidelines pertaining to the handling, testing, storage, and preservation of samples.

(b) The agency shall report in writing to the Criminal Justice Standards Division all refusals and all positive results of required drug screening obtained from applicants. If the positive result was explained by the applicant to the satisfaction of the agency's Medical Review Officer, who shall be a licensed physician, the positive results are not required to be reported.

(c) The agency, if it conducts a drug screen for in-service officers, shall report in writing positive results or refusals to submit to an in-service drug screening to the Criminal Justice Standards Division within 30 days of the positive result or refusal, unless the officer has explained the positive result to the satisfaction of the agency's Medical Review Officer, who shall be a licensed physician, to the extent the drug screen conducted conforms to the specifications of this Rule.

(d) For reporting purposes, a result is considered "positive" only in those cases where the drug screen reveals the presence of an illegal drug at a level equal to or greater than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

(e) For reporting purposes, a result is considered "negative" only in those cases where the drug screen reveals the presence of an illegal drug at a level less than the threshold value as established by the Department of Health and Human Services for Federal Workplace Drug Testing Programs and incorporated by reference in this Rule.

(f) All written reports required to be submitted to the Criminal Justice Standards Division by this Rule shall contain the individual's name, date of birth, either the date the test was administered or the date of the refusal, and a copy of the drug screen panel with the results of the medical officer review.

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

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 rule cited as 15A NCAC 02D .0516.*

Link to agency website pursuant to G.S. 150B-19.1(c): *http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process*

Proposed Effective Date: *May 1, 2023*

Public Hearing:
Date: *January 11, 2023*
Time: *6:00 p.m.*
Location: *1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones St., Raleigh, NC 27603 or virtually using Cisco WebEx, Digital Hearing Link: https://bit.ly/3F9cIb1 Event password: NCDAQ*

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 2436 730 5068
If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 4:00 p.m. on January 11, 2023.
To register, please go to the following link: https://forms.office.com/g/60sZnbCKWV
**For instructions on ways to join the public hearing, please refer to the following link: https://files.nc.gov/ncdeq/Air%20Quality/rules/hearing/instructions-on-ways-to-join-webex.pdfhttps://www.webex.com/test-meeting.html*
**If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8403*

Reason for Proposed Action:
To receive comments on the proposed amendments to 15A NCAC 02D .0516, Sulfur Dioxide Emissions from Combustion Sources, and accompanying regulatory impact analysis for the proposed amendments. The revisions proposed in this rulemaking are primarily to provide clarity and consistency with the Division of Air Quality's position that the use of excess or supplemental fuel beyond what is needed for combustion is not a means for compliance with the SO_2 standard in 15A NCAC 02D .0516. On September 8, 2022, the Environmental Management Commission approved proceeding to public comment on the proposed amendments to 15A NCAC 02D .0516. The text of the rules and regulatory impact analysis are available on the DAQ website: http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process.

Comments may be submitted to: *Katherine Quinlan, 217 West Jones St., 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8702; fax (919) 715-0717; email daq.publiccomments@ncdenr.gov (Please type "SO2 Revisions" in the subject line)*

Comment period ends: *January 30, 2023*

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 984-236-1850.

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 02D - AIR POLLUTION CONTROL REQUIREMENTS

SECTION .0500 - EMISSION CONTROL STANDARDS

15A NCAC 02D .0516 SULFUR DIOXIDE EMISSIONS FROM COMBUSTION SOURCES

(a) ~~Emission~~ Emissions of sulfur dioxide from any source of ~~combustion~~ combustion, including air pollution control devices, discharged from any vent, stack, ~~or chimney~~ chimney, or flare shall not exceed 2.3 pounds of sulfur dioxide per million ~~BTU~~ Btu input.

(b) When determining compliance with this standard:

(1) ~~Sulfur~~ the sulfur dioxide formed by the combustion of sulfur in fuels, wastes, ores, and other substances shall be ~~included when determining compliance with this standard.~~ included;

(2) ~~Sulfur~~ the sulfur dioxide formed or reduced as a result of treating flue gases with sulfur trioxide or other materials shall also be accounted ~~for when determining compliance with this standard.~~ for in the determination of emissions; and

(3) the determination of Btu input shall not include any fraction of heat input associated with the combustion of fuels whose purpose is to increase heat input beyond what is needed for normal or permitted operation and solely in order to demonstrate compliance with this standard.

~~(b)~~(c) The standard set forth in Paragraph (a) of this Rule shall not apply to sulfur dioxide emission sources already subject to an emission standard for sulfur dioxide in 15A NCAC 02D .0524, .0527, .1110, .1111, .1206, or .1210.

Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5).

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***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 adopt the rules cited as 15A NCAC 10B .0306; 10D .0240, amend the rules cited as 15A NCAC 10B .0127, .0203, .0227, .0301, .0303; 10C .0205, .0206, .0302, .0306, .0314, .0401; 10D .0102, .0211, .0215, .0239, .0258, .0269, .0271; 10H .1506, repeal the rule cited as 15A NCAC 10B .0110, and readopt with substantive changes the rules cited as 15A NCAC 10D .0103-.0105; 10J .0101 and .0102.*

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

Proposed Effective Date: *August 1, 2023*

Public Hearing:
Date: *January 10, 2023*
Time: *7:00 p.m.*
Location: *Craven County Courthouse (District Courtroom #4), 302 Broad St., New Bern, NC 28560*

Date: *January 12, 2023*
Time: *7:00 p.m.*
Location: *Old Asheboro Courthouse, 725 McDowell Road, Asheboro, NC 27205*

Date: *January 17, 2023*
Time: *7:00 p.m.*
Location: *McDowell Technical Community College, 54 College Drive, Marion, NC 28752*

Date: *January 19, 2023*
Time: *7:00 p.m.*
Location: *Register Online: https://ncwildlife-org.zoomgov.com/webinar/register/WN_S8FEIxE8TFaqY4FkC0bmYg Webinar ID: 160 229 5222 Phone: 877-853-5247*

Reason for Proposed Action: *Each year, the N.C. Wildlife Resources Commission reviews and adjusts, as needed, seasons, bag limits, and the management of land, in order to achieve conservation management goals, comply with statutory changes, and respond to constituent requests.*

10C .0314 and 10C .0401 are subject to legislative review. Amendments to the rules based on the temporary versions and the versions subject to review are both included in the annual cycle filings, as the agency is unsure at this time which version will have to be amended.

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

Comment period ends: *January 30, 2023*

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 984-236-1850.

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 10B - HUNTING AND TRAPPING

SECTION .0100 - GENERAL REGULATIONS

15A NCAC 10B .0110 ATTENDANCE OF TRAPS

~~(a) Every trap shall be visited daily and any animal caught therein removed, except for completely submerged conibear type traps which shall be visited once every 72 hours and any animal caught therein removed.~~

~~(b) Remote trap checking systems may be used in lieu of visiting the trap, provided the system has the following features:~~

~~(1) a control unit that monitors the trap in real-time and reports trap status and unit status to a centralized application database at least once every 12 hours;~~

~~(2) a software application that notifies the user of unit status, trap activity, and system health issues within 10 minutes of these events via email, text-based messaging systems, or an in-application notification; and~~

~~(3) an on-demand test procedure that is used at each deployment of a unit to confirm that the unit is placed in a location where its wireless communication can be received and processed.~~

~~(c) If the remote trap checking system control unit reports a trap closure, the trap shall be physically visited within 24 hours of the time the trap was reported closed.~~

~~(d) If a remote trap checking system control unit fails to report its status after a 12-hour period, or reports a system health issue, the trap shall be physically visited within 24 hours of the last time a status report was sent.~~

~~(e) Remote trap checking system users shall maintain records of trap status and notification alarms for at least seven days after receipt. Records shall be made available for inspection upon request by a representative of the Commission.~~

Authority G.S. 113-134; 113-291.6.

15A NCAC 10B .0127 POSSESSION OF WILDLIFE KILLED ACCIDENTALLY OR FOUND DEAD

(a) Deer killed accidentally on a road by reason of collision with a motor vehicle may be possessed and transported if authorization is obtained from the law enforcement officer who investigates the accident. Possession and transport of the deer carcass for personal and lawful use, including delivery of the carcass to a second

person for his or her private use or use by a charitable organization shall be authorized.

(b) Commission employees may authorize possession and transport of deer and turkey killed accidently or found dead.

(c) The following shall not be possessed or transported if killed accidentally or found dead unless written authorization is obtained from the Commission:

(1) black bears; and

(2) elk.

~~(c) Black bears killed accidentally or found dead shall not be possessed or transported unless a possession permit is obtained from the Commission.~~

(d) Species listed as endangered, threatened, or of special concern under 15A NCAC 10I .0103, .0104, and .0105 killed accidentally or found dead may be possessed or transported if an endangered species permit is obtained from the Commission.

(e) Raptors and migratory birds killed accidentally or found dead may be possessed and transported under federal permits obtained from the U.S. Fish and Wildlife Service.

(f) All other wildlife resources may be possessed and transported legally if killed accidentally or found dead.

(g) The sale of any wildlife resources or wildlife parts from any animal killed accidentally or found dead is prohibited, except that licensed trappers and hunters may sell the carcasses, parts, or pelt of any armadillo, beaver, coyote, groundhog, mink, muskrat, nutria, opossum, otter, raccoon, skunk, weasel or bobcat to a licensed fur dealer if the dead furbearing animal was found during the open season for that species. Licensed trappers and hunters may also sell the carcasses, parts, or pelt of any fox to a licensed fur dealer if the dead fox was found during an open fox season and the county where the fox was found allows for the sale of fox carcasses, parts, and pelts. All tagging requirements set forth in 15A NCAC 10B .0400 apply.

Authority G.S. 113-134; 113-274; 113-291.3; 113-291.4; 113-331; 113-333; 113-337.

SECTION .0200 - HUNTING

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

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

(1) Deer With Visible Antlers. Deer with antlers or spikes protruding through the skin, as distinguished from knobs or buttons covered by skin or velvet, may be taken on all game lands except Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0103 for Deer With Visible Antlers seasons on these Game Lands), during the following seasons:

(A) Saturday on or nearest October 15 through January 1 in all of Beaufort, Bladen, Brunswick, Carteret, Columbus*, Cumberland, Craven, Dare, Duplin, Harnett, Hoke, Hyde, Jones, Lenoir, Moore, New Hanover, Onslow, Pamlico, Pender, Richmond, Robeson, Sampson, Scotland, Tyrrell, and Washington counties.

*Unlawful to hunt or kill deer in Lake Waccamaw or within 50 yards of its shoreline.

(B) Saturday on or nearest October 15 through January 1 in all of Bertie, Camden, Chowan, Currituck, Edgecombe, Franklin, Gates, Greene, Halifax, Hertford, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Pitt, Vance, Wake, Warren, Wayne, and Wilson counties.

(C) Saturday before Thanksgiving Day through January 1 in all of Alexander, Alleghany, Ashe, Catawba, Cleveland, Davie, Forsyth, Gaston, Iredell, Lincoln, Polk, Rutherford, Stokes, Surry, Watauga, Wilkes, and Yadkin counties.

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

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

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

(2) Antlered or Antlerless Deer. ~~Deer of Either Sex.~~ Except on Game Lands, antlered or antlerless deer ~~of either sex~~ may be taken during the open seasons and in the counties and portions of

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

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

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

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

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

(E) The first open day of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule through the first Saturday thereafter in all of ~~Avery, Burke, Caldwell,~~ Madison and McDowell ~~McDowell, Mitchell, and Yancey~~ counties.

(F) The first open day of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule through the second ~~Friday~~ Saturday thereafter in all of ~~Cleveland, Polk, and Rutherford~~ Avery, Burke, Caldwell, Madison, Mitchell, and Yancy counties.

(G) The first open day of the Deer With Visible Antlers season described in Subparagraph (a)(1) of this Rule through the fourth Friday thereafter in all of Cleveland, Polk, and Rutherford counties.

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

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

(b) Open Seasons (Archery) for hunting deer:

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

(A) Saturday on or nearest September 10 through the day immediately preceding the first open day of the Blackpowder Firearms and Archery

Seasons described in Subparagraph (c)(1) of this Rule; and the Sunday immediately following the closing of blackpowder firearms and archery season identified in Part (c)(1)(B) of this Rule to the Sunday before Thanksgiving in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0103 for Archery seasons on these Game Lands).

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

(2) Restrictions

(A) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs may not be used for hunting deer during the archery season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).

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

(C) Antlered or antlerless deer ~~Deer of either sex~~ may be taken during archery seasons specified by Part (b)(1)(A) of this Rule.

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

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

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

(A) Two Saturdays preceding the first day of the Deer with Visible Antlers seasons described in Parts (a)(1)(A), (B), (C), (E), and (F) of this Rule through the second Friday thereafter except on Buffalo Cove, Nicholson Creek, Rockfish Creek, Sandhills, and South Mountains Game Lands (Refer to 15A NCAC 10D .0103 for Blackpowder Firearms and Archery seasons on these Game Lands):

(B) Monday on or nearest October 1 through the second Saturday thereafter in the counties and parts of counties having the open seasons for Deer With Visible Antlers specified by Part (a)(1)(D) of this Rule.

(2) Restrictions

(A) Antlered or antlerless deer ~~Deer of either sex~~ may be taken during blackpowder firearms and archery season in any county or county part set forth in Part (a)(2)(G) of this Rule that has either-sex days for all lawful weapons and in the following counties: Polk, Rutherford, McDowell, Burke, Caldwell, and Cleveland. Antlered or antlerless deer ~~Deer of either sex~~ may be taken on the first Saturday day of this season only in all other counties.

(B) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the blackpowder firearms and archery seasons, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).

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

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

(1) Authorization. Subject to the restrictions set out in Subparagraph (3) of this Paragraph and the bag limits set out in Paragraph (e) of this Rule, antlered or antlerless deer ~~of either sex~~ may be taken with bow and arrow in participating cities in the State, as defined in G.S. 160A-1(2), from the second Saturday following January 1 through the sixth Sunday thereafter. Deer shall

not be taken on any game land or part thereof that occurs within a city boundary.

(2) Participation. Cities that intend to participate in the urban season shall send a letter to that effect no later than April 1 of the year prior to the start of the urban season to the Executive Director or his designee at 1722 Mail Service Center, Raleigh, N.C. 27699-1700. Cities shall also submit a map of the city's boundaries within which the urban season shall apply.

(3) Restrictions:

(A) In the areas of the State where the Commission is authorized to regulate the use of dogs as provided in G.S. 113-291.5, dogs shall not be used for hunting deer during the urban season, except a single dog on a leash may be used to retrieve a dead or wounded deer in accordance with G.S. 113-291.1(k).

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

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

Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.1; 113-291.2; 113-291.5.

15A NCAC 10B .0227 WILD QUAIL MANGEMENT AREAS

(a) A "Wild Quail Management Area" shall be land maintained to enhance enjoyment of sportsmen and support wild bobwhite quail conservation under signed agreement between the landowner(s) and the Wildlife Resources Commission.

(b) The following qualifications shall apply to all Wild Quail Management Areas:

(1) At least 500 acres of contiguous land; and

(2) A minimum of 225 acres or 15 percent of the land, whichever is greater, shall be maintained in year-round bobwhite quail habitat.

(c) Wild bobwhite quail habitat shall be any early successional habitat dominated by herbaceous vegetation or shrub cover consisting of a mixture of young saplings, shrubs, forbs, and woody plants typically less than ten feet tall with scattered open patches of grasses, wildflowers, and vines. Forest stands shall have a basal area no greater than 60 square feet per acre. Land managed and maintained primarily for human uses such as large lawns, golf courses, sod-forming pastures, production agriculture fields, monoculture hayfields, solar energy, or production timber stands shall not qualify as early successional habitat.

(d) Landowners interested in establishing a Wild Quail Management Area shall contact the Commission as described on the Commission's website at www.ncwildlife.org.

(e) The signed agreement between the landowner(s) and the Commission shall include:

(1) a list of all owners of land included in the Wild Quail Management Area;

(2) county parcel identification information for each parcel to be included in the Wild Quail Management Area;

(3) a scaled map of the Wild Quail Management Area with the areas to be maintained in year-round bobwhite quail habitat identified;

(4) management practices to be used to maintain bobwhite quail habitat and populations; and

(5) any reporting requirements in addition to the minimum requirements in Subparagraph (g)(6) of this Rule that are specific to the individual Wild Quail Management Area.

(f) Property inspection:

(1) All potential properties shall be inspected by a representative of the Commission prior to acceptance into the program to determine that the proposed land and habitat will qualify to become a Wild Quail Management Area; and

(2) Wild Quail Management Areas shall be inspected by a representative of the Commission at least once every five years to determine that the requirements of the signed agreement and this rule are being met.

(g) The following shall apply to all Wild Quail Management Areas:

(1) No domestically raised upland game birds shall be released on Wild Quail Management Areas.

(2) The hunting of wild bobwhite quail shall only be permitted during the established seasons in 15A NCAC 10B .0208.

(3) Supplemental feeding, if conducted, shall be for the primary purpose of ensuring that wild bobwhite quail populations remain stable during droughts or other periods of stressful environmental conditions. Supplemental feed shall:
  (A) be broadcast into quail habitat along a minimum linear distance of at least one mile per 100 acres of habitat at a rate of three bushels per mile;
  (B) be broadcast on a bi-weekly schedule during at least five months each year
  (C) be broadcast using a non-stationary spreader;
  (D) be only natural grains or seed; and
  (E) not be placed to attract birds for the purpose of hunting.

(4) Except for wild bobwhite quail on Wild Quail Management Areas, no wild birds shall be taken near or with the aid of supplemental feed.

(5) Outside of the trapping season established in 15A NCAC 10B .0303, trapping ~~Trapping~~ for raccoon, striped skunk, armadillo, and opossum on Wild Quail Management Areas for the purpose of nest predator control shall only be allowed ~~from the end of the established trapping season in 15A NCAC 10B .0303 through May 31. Enclosed~~ using enclosed foot-hold traps with a one-way trigger or cage ~~traps may be used, and trapped~~ traps. Trapped raccoons, striped skunks, armadillos, and opossums may be euthanized or released at the trap site.

(6) An annual report for the period of June 1 through May 31 shall be submitted to the Commission within 30 days of the end of the reporting period, and shall include the following:
  (A) number of days and hours wild bobwhite quail were hunted;
  (B) total annual harvest of wild bobwhite quail;
  (C) total number of coveys flushed;
  (D) supplemental feeding activities;
  (E) number of trap nights, number of animals trapped and their disposition or release, by species, for trapping activity conducted during trapping seasons established by 15A NCAC 10B .0303; and
  (F) number of trap nights, number of animals trapped and their disposition or release, by species, for trapping activity conducted outside of trapping seasons established by 15A NCAC 10B .0303.

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

SECTION .0300 - TRAPPING

15A NCAC 10B .0301 DEFINITIONS

As used in this Section, the following definitions apply:

(1) "Box trap" and "cage trap" are any device designed in such a manner that the animal enters the trap through a door that closes and is meant to prevent the animal from exiting.

~~(1)~~(2) "Breakaway device" means any device incorporated into a snare or snare component that allows the loop to break open, and an animal to escape completely free of the snare, when a specified amount of force is applied.

~~(2)~~(3) "Collarum™-type trap" means any power-activated snare that is activated when the trigger is pulled and that is designed to capture and restrain the animal by a cable around the neck.

(4) "Conibear®", "conibear®-type", and "bodygrip" traps are designed to catch an animal in a body hold resulting in a quick kill.

~~(3)~~(5) "Leghold" and "foothold" mean any trap designed to hold an animal by the foot.

~~(4)~~(6) "Loop stop" means a device that is attached to the snare cable to prevent the loop from closing beyond a specified point.

~~(5)~~(7) "Power-activated" means a snare on which the speed or direction of the loop closure is initiated or augmented by some type of powering device like a spring.

~~(6)~~(8) "Relaxing lock" means a snare lock that allows the snare loop to release constriction pressure on the captured animal when the cable is not taut.

~~(7)~~(9) "Snare" means any cable restraining device.

~~(8)~~(10) "Steel-jaw" means any leghold or foothold trap in which the jaw(s) are made of metal.

Authority G.S. 113-134; 113-291.1; 113-291.6.

15A NCAC 10B .0303 OPEN SEASONS

(a) ~~General.~~ The open season for the taking by trapping of fur-bearing animals as those animals are defined in G.S. 113-129(7a), as well as the taking by trapping of coyotes, armadillos, and groundhogs, shall be ~~November~~ October 1 through the last day of February, subject to the following:
  (1) trapping coyotes shall also be allowed during local fox trapping seasons and in accordance with methods described by local law in counties that have established fox trapping seasons by law outside the regular trapping season described in Paragraph (a); and
  (2) nutria may be trapped east of I-77 at any time.

(b) Feral Swine. There is no closed season for trapping feral swine, subject to the following restrictions:
  (1) in addition to a hunting or trapping license, a permit issued by the Wildlife Resources Commission is required to trap feral swine. Individuals exempted from license requirements under the provisions specified in

G.S. 113-276 may trap feral swine without a hunting or trapping license, but must acquire the permit;

(2) feral swine may be live-trapped using only corral or box traps. Corral and box traps must be constructed in a manner such that a non-target animal can be released or can escape without harm. The permit number must be displayed on all traps; and

(3) feral swine must be euthanized while in the trap and may not be removed alive from any trap.

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

Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.12.

15A NCAC 10B .0306 ATTENDANCE AND TAGGING OF FURS

(a) Every trap shall be visited daily and any animal caught therein removed, except for completely submerged conibear type traps which shall be visited once every 72 hours and any animal caught therein removed.

(b) Steel-jaw, leghold, conibear®, conibear®-type traps, Collarum™-type traps, snares, box traps, and cage traps must have a weather-resistant permanent tag attached legibly giving the trapper's name and address or the trapper's trapper identification number provided by the Wildlife Resources Commission and the Wildlife Resources Commission's telephone number to report wildlife violations. Box traps for rabbits must have a weather-resistant permanent tag attached legibly giving the hunter's name and address or the hunter's Wildlife Resources Commission customer number and the Wildlife Resources Commission's telephone number to report wildlife violations.

(c) Remote trap checking systems may be used in lieu of visiting the trap, provided the system has the following features:

(1) a control unit that monitors the trap in real-time and reports trap status and unit status to a centralized application database at least once every 12 hours;

(2) a software application that notifies the user of unit status, trap activity, and system health issues within 10 minutes of these events via email, text-based messaging systems, or an in-application notification; and

(3) an on-demand test procedure that is used at each deployment of a unit to confirm that the unit is placed in a location where its wireless communication can be received and processed.

(d) If the remote trap checking system control unit reports a trap closure, the trap shall be physically visited within 24 hours of the time the trap was reported closed.

(e) If a remote trap checking system control unit fails to report its status after a 12-hour period, or reports a system health issue, the trap shall be physically visited within 24 hours of the last time a status report was sent.

(f) Remote trap checking system users shall maintain records of trap status and notification alarms for at least seven days after receipt. Records shall be made available for inspection upon request by a representative of the Commission.

Authority G.S. 113-134; 113-291.1; 113-291.2; 113-291.12.

SUBCHAPTER 10C - INLAND FISHING REGULATIONS

SECTION .0200 - GENERAL REGULATIONS

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

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

(1) "Natural bait" means any living or dead organism (plant or animal), or parts thereof, or prepared substances designed to attract fish by the sense of taste or smell.

(2) "Single hook" means a fish hook with only one point.

(3) "Artificial lure" means a fishing lure that neither contains nor has been treated by any substance that attracts fish by the sense of taste or smell.

(4) "Artificial fly" means one single hook dressed with feathers, hair, thread, tinsel, rubber, or any similar material to which no additional hook, spinner, spoon or similar device is added.

(5) "Youth anglers" are individuals under 18 years of age.

(b) For purposes of this Rule, 15A NCAC 10C .0316, and 15A NCAC 10D .0104, the following classifications apply:

(1) "Public Mountain Trout Waters" are all waters included in this Rule and so designated in 15A NCAC 10D .0104.

(2) "Catch and Release/Artificial Flies and Lures Only Trout Waters" are Public Mountain Trout Waters where only artificial flies and lures having one single hook may be used. No trout may be possessed or harvested while fishing these streams. Waters designated as such include tributaries unless otherwise noted.

(3) "Delayed Harvest Trout Waters" are Public Mountain Trout Waters where between October 1 and one-half hour after sunset on the Friday before the first Saturday of the following June, it is unlawful to possess natural bait, use more than one single hook on an artificial lure, or harvest or possess trout while fishing. From 6:00 a.m. on the first Saturday in June until noon that same day, only youth anglers may fish and these waters have no bait or lure restrictions. From noon on the first Saturday in June until October 1, anglers of all ages may fish and these waters have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.

(4) "Hatchery Supported Trout Waters" are Public Mountain Trout Waters that have no bait or lure restrictions. Waters designated as such do not include tributaries unless otherwise noted.

(5) "Special Regulation Trout Waters" are Public Mountain Trout Waters where watercourse-specific regulations apply. Waters designated as such do not include tributaries unless otherwise noted.

(6) "Wild Trout Waters" are Public Mountain Trout Waters which are identified as such in this Rule or 15A NCAC 10D .0104. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing these waters. Waters designated as such do not include tributaries unless otherwise noted.

(7) "Wild Trout Waters/Natural Bait" are Public Mountain Trout Waters where all artificial lures and natural baits, except live fish, may be used provided they are fished using only one single hook. Waters designated as such include tributaries unless otherwise noted.

(8) "Undesignated Waters" are all other waters in the State. These waters have no bait or lure restrictions.

(c) Seasons, creel, and size limits. Seasons, creel, and size limits for trout in all waters are listed in Rule .0316 of this Subchapter.

(d) Classifications. This Paragraph designates waters in each county that have a specific classification. Waters on game lands are so designated in 15A NCAC 10D .0104, unless otherwise indicated in this Paragraph. All other waters are classified as Undesignated Waters.

(1) Alleghany

(A) Delayed Harvest Trout Waters are as follows:
Little River (S.R. 1133 bridge to 275 yards downstream of the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank])

(B) Hatchery Supported Trout Waters are as follows:
Big Pine Creek
Bledsoe Creek
Brush Creek (N.C. 21 bridge to confluence with Little River, except where posted against trespassing)
Cranberry Creek
(Big) Glade Creek
Little River (275 yards downstream from the intersection of S.R. 1128 and S.R. 1129 [marked by a sign on each bank] to McCann Dam)
Meadow Fork
Pine Swamp Creek
Piney Fork
Prathers Creek

(C) Wild Trout Waters are as follows:
All waters located on Stone Mountain State Park

(2) Ashe County

(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Big Horse Creek (Virginia state line to Mud Creek at S.R. 1363, excluding tributaries)

(B) Delayed Harvest Trout Waters are as follows:
Big Horse Creek (S.R. 1324 bridge to North Fork New River)
Helton Creek (900 yards upstream of SR 1372 bridge [marked by a sign on each bank] to North Fork New River)
South Fork New River (upstream end of Todd Island to the SR 1351 bridge)
Trout Lake

(C) Hatchery Supported Trout Waters are as follows:
Beaver Creek (N.C. 221 to confluence of Beaver Creek and South Beaver Creek)
Big Horse Creek (Mud Creek at S.R. 1363 to S.R. 1324 bridge)
Big Laurel Creek (S.R. 1315 bridge to confluence with North Fork New River)
Buffalo Creek (S.R. 1133 bridge to N.C. 194-88 bridge)
Cranberry Creek (Alleghany Co. line to South Fork New River)
Nathans Creek
North Fork New River (Watauga Co. line to Sharp Dam)
Old Fields Creek (N.C. 221 to South Fork New River)
Peak Creek ~~(headwaters to~~ Upper boundary of NCDA-NCSU Upper Mountain Research Station to Trout ~~Lake, except Blue Ridge Parkway waters)~~ Lake)
Roan Creek
Three Top Creek

(3) Avery County

(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Elk River (portion on Lees-McRae College property, excluding the millpond)
Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
Wilson Creek (game land portion)

(B) Hatchery Supported Trout Waters are as follows:
Boyde Coffey Lake
Elk River (S.R. 1305 crossing immediately upstream of Big Falls to the Tennessee state line)
Linville River S.R. 1504 to the Blue Ridge Parkway boundary line, except where posted against trespassing)

Milltimber Creek
North Toe River — upper (Watauga St. to Roby Shoemaker Wetlands and Family Recreational Park, except where posted against trespassing)
North Toe River — lower (S.R. 1164 to Mitchell Co. line, except where posted against trespassing)
Squirrel Creek
Wildcat Lake

(C) Wild Trout Waters are as follows:
Birchfield Creek
Cow Camp Creek
Cranberry Creek (headwaters to U.S. 19E/N.C. 194 bridge)
Gragg Prong
Horse Creek
Kentucky Creek
North Harper Creek
Plumtree Creek
Roaring Creek
Rockhouse Creek
Shawneehaw Creek (portion adjacent to Banner Elk Greenway)
South Harper Creek
Webb Prong

(4) Buncombe County

(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Carter Creek (game land portion)

(B) Hatchery Supported Trout Waters are as follows:
Bent Creek (headwaters to N.C. Arboretum boundary line)
Cane Creek (headwaters to S.R. 3138 bridge)
Corner Rock Creek (Little Andy Creek to confluence with Walker Branch)
Dillingham Creek (Corner Rock Creek to Ivy Creek)
Ivy Creek (Ivy River)(Dillingham Creek to U.S. 19-23 bridge)
Lake Powhatan
Reems Creek (Sugar Camp Fork to U.S. 19-23 bridge, except where posted against trespassing)
Rich Branch (downstream from the confluence with Rocky Branch)
Stony Creek
Swannanoa (S.R. 2702 bridge near Ridgecrest to Wood Avenue bridge [intersection of N.C. 81 and U.S. 74A in Asheville], except where posted against trespassing)

(5) Burke County

(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Henry Fork (portion on South Mountains State Park)

(B) Delayed Harvest Trout Waters are as follows:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)

(C) Hatchery Supported Trout Waters are as follows:
Carroll Creek (game land portion above S.R. 1405)
Henry Fork (lower South Mountain State Park line downstream to S.R. 1919 at Ivy Creek)
Linville River portion within Linville Gorge Wilderness area and portion below Lake James powerhouse from upstream bridge on S.R. 1223 to Muddy Creek)

(D) Special Regulation Trout Waters are as follows:
Catawba River (Muddy Creek to City of Morganton water intake dam)

(E) Wild Trout Waters are as follows:
All waters located on South Mountains State Park, except those waters identified in Parts A and B of this Subparagraph

(6) Caldwell County

(A) Delayed Harvest Trout Waters are as follows:
Wilson Creek (game land portion below Lost Cove Creek to Philips Branch)

(B) Hatchery Supported Trout Waters are as follows:
Boone Fork Pond
Buffalo Creek (mouth of Joes Creek to McCloud Branch)
Joes Creek (first falls upstream of S.R. 1574 to confluence with Buffalo Creek)
Wilson Creek (Phillips Branch to Brown Mountain Beach Dam, except where posted against trespassing)
Yadkin River (Happy Valley Ruritan Community Park to S.R. 1515)

(C) Wild Trout Waters are as follows:
Buffalo Creek (Watauga Co. line to Long Ridge Branch including game land tributaries)
Joes Creek (Watauga Co. line to first falls upstream of the end of S.R. 1574)
Rockhouse Creek

(7) Cherokee County

(A) Hatchery Supported Trout Waters are as follows:
Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)
Hyatt Creek (Big Dam Branch to Valley River)
Junaluska Creek (Ashturn Creek to Valley River)
Shuler Creek (Joe Brown Hwy [S.R. 1325] bridge to Tennessee state line)
Valley River (S.R. 1359 to U.S. 19 Business bridge in Murphy)

(B) Special Regulation Trout Waters are as follows:
Apalachia Reservoir

(C) Wild Trout Waters/Natural Bait are as follows:
Bald Creek (game land portion)
Dockery Creek (game land portion)

(8) Clay County

(A) Delayed Harvest Trout Waters are as follows:
Fires Creek (Rockhouse Creek to the foot bridge in the USFS Fires Creek Picnic Area)

(B) Hatchery Supported Trout Waters are as follows:
Buck Creek (game land portion downstream of U.S. 64 bridge)
Fires Creek (foot bridge in the USFS Fires Creek Picnic Area to S.R. 1300)
Tusquitee Creek (Compass Creek to lower S.R. 1300 bridge)

(9) Graham County

(A) Delayed Harvest Trout Waters are as follows:
(Big) Snowbird Creek (USFS footbridge at the old railroad junction to USFS Rd. 2579)

(B) Hatchery Supported Trout Waters are as follows:
Calderwood Reservoir (Cheoah Dam to Tennessee state line)
Cheoah Reservoir
Panther Creek (confluence of Stand Creek and Rock Creek to Lake Fontana)
Santeetlah Creek (Johns Branch to Lake Santeetlah)
(Big) Snowbird Creek (USFS Road 2579 to S.R. 1127 bridge)
Stecoah Creek (upper game land boundary to Lake Fontana)
Tulula Creek (S.R. 1201 to lower bridge on S.R. 1275)
West Buffalo Creek
Yellow Creek (Lake Santeetlah hydropower pipeline to Cheoah River)

(C) Wild Trout Waters are as follows:
Little Buffalo Creek
South Fork Squally Creek
Squally Creek

(D) Wild Trout Waters/Natural Bait are as follows:
Long Creek (game land portion)

(10) Haywood County

(A) Delayed Harvest Trout Waters are as follows:
West Fork Pigeon River (Queen Creek to the first game land boundary upstream of Lake Logan)

(B) Hatchery Supported Trout Waters are as follows:
Cold Springs Creek (Fall Branch to Pigeon River)
Jonathan Creek (upstream S.R. 1302 bridge to Pigeon River, except where posted against trespassing)
Pigeon River (Stamey Cove Branch to upstream U.S. 19-23 bridge)
Richland Creek (Russ Avenue [U.S. 276] bridge to U.S. 19 bridge)
West Fork Pigeon River (Tom Creek to Queen Creek, including portions on game lands, except Middle Prong)

~~(C) Wild Trout Waters/Natural Bait are as follows:~~
~~Hurricane Creek~~

(11) Henderson County

(A) Delayed Harvest Trout Waters are as follows:
North Fork Mills River (game land portion below the Hendersonville watershed dam)

(B) Hatchery Supported Trout Waters are as follows:
(Rocky) Broad River (end of S.R. 1611 to Rutherford County line)
Cane Creek (railroad bridge upstream of S.R. 1551 bridge to U.S. 25 bridge)
Clear Creek (Laurel Fork to S.R. 1582)
Green River (Lake Summit powerhouse to game land boundary)
(Big) Hungry River (S.R. 1885 to Green River)

(12) Jackson County

(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Flat Creek
(East Fork) Tuckasegee River(game lands portion upstream of Tanasee Creek Lake, including Duke Energy powerline corridor)
Tuckasegee River (upstream from the Clark property)

(B) Delayed Harvest Trout Waters are as follows:
Tuckasegee River (downstream N.C. 107 bridge to the falls located 275 yards upstream of the U.S. 23-441 bridge [marked by a sign on each bank])

(C) Hatchery Supported Trout Waters are as follows:
Balsam Lake
Bear Creek Lake
Cedar Cliff Lake
Cullowhee Creek (Tilley Creek to Tuckasegee River)
Dark Ridge Creek (Jones Creek to Scott Creek)
Greens Creek (Greens Creek Baptist Church on S.R. 1370 to Savannah Creek)
Savannah Creek (Shell Branch to Cagle Branch)
Scott Creek (Dark Ridge Creek to Tuckasegee River, except where posted against trespassing)
Tanasee Creek Lake
Tuckasegee River — upper (John Brown Branch to the downstream N.C. 107 bridge)
Tuckasegee River — lower (falls located 275 yards upstream of U.S. 23-441 bridge [marked by a sign on each bank] to S.R. 1534 bridge at Wilmot)
Wolf Creek Lake

(D) Wild Trout Waters are as follows:
Gage Creek
North Fork Scott Creek
Tanasee Creek
Whitewater River (downstream from Silver Run Creek to South Carolina state line)
Wolf Creek (except Balsam Lake and Wolf Creek Lake)

(E) Wild Trout Waters/Natural Bait are as follows:
Chattooga River (S.R. 1100 bridge to the South Carolina state line)
~~Scotsman Creek (game land portion)~~

(13) Macon County

(A) Delayed Harvest Trout Waters are as follows:
Nantahala River (Whiteoak Creek to Nantahala hydropower discharge canal)

(B) Hatchery Supported Trout Waters are as follows:
Burningtown Creek (Left Prong to Little Tennessee River)
Cartoogechaye Creek (downstream U.S. 64 bridge to Little Tennessee River)
Cliffside Lake
Cullasaja River (Sequoyah Dam to U.S. 64 bridge near junction of S.R. 1672)
Nantahala River — upper (Dicks Creek to Whiteoak Creek)
Nantahala River — lower (Nantahala hydropower discharge canal to Swain Co. line)
Queens Creek Lake

(C) Wild Trout Waters/Natural Bait are as follows:
Chattooga River (S.R. 1100 bridge to South Carolina state line)
Kimsey Creek
Park Creek
~~Tellico Creek (game land portion)~~
~~Turtle Pond Creek (game land portion)~~

(14) Madison County

(A) Delayed Harvest Trout Waters are as follows:
Big Laurel Creek (N.C. 208 bridge to the U.S. 25-70 bridge)
Shelton Laurel Creek (N.C. 208 bridge at Belva to the confluence with Big Laurel Creek)
Spring Creek (N.C. 209 bridge at Hot Springs city limits to iron bridge at end of Andrews Ave.)

(B) Hatchery Supported Trout Waters are as follows:
Big Laurel Creek (Puncheon Fork to the S.R. 1318 [Big Laurel Rd.] bridge downstream of Bearpen Branch)
Big Pine Creek (S.R. 1151 bridge to French Broad River)
Little Ivy Creek (confluence of Middle Fork and Paint Fork at Beech Glen to confluence with Ivy Creek at Forks of Ivy)
Max Patch Pond
Meadow Fork Creek (Meadow Fork Campground to Spring Creek)
Puncheon Fork (Wolf Laurel Branch to Big Laurel Creek)
Roaring Fork (Fall Branch to Meadow Fork)
Shelton Laurel Creek (confluence of Big Creek and Mill Creek to N.C. 208 bridge at Belva)
Shut-in Creek
Spillcorn Creek
Spring Creek (junction of N.C. 209 and N.C. 63 to the confluence with Meadow Fork)

West Fork Shut-in Creek (lower game land boundary to confluence with East Fork Shut-in Creek)

~~(C) Wild Trout Waters/Natural Bait are as follows:~~

~~Big Creek (headwaters to the lower game land boundary)~~

(15) McDowell County

(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:

Newberry Creek (game land portion)

(B) Delayed Harvest Trout Waters are as follows:

Catawba River (portion adjacent to Marion Greenway)

Curtis Creek (game land portion downstream of the USFS boundary at Deep Branch)

Mill Creek (U.S. 70 bridge to I-40 bridge)

(C) Hatchery Supported Trout Waters are as follows:

Armstrong Creek (Cato Holler line downstream to upper Greenlee line)

Catawba River (Catawba Falls Campground to Old Fort Recreation Park)

Little Buck Creek (game land portion)

North Fork Catawba River (headwaters to North Cove School at S.R. 1569 bridge)

(16) Mitchell County

(A) Delayed Harvest Trout Waters are as follows:

Cane Creek (N.C. 226 bridge to S.R. 1189 bridge)

North Toe River (U.S. 19E bridge to N.C. 226 bridge)

(B) Hatchery Supported Trout Waters are as follows:

Big Rock Creek (headwaters to N.C. 226 bridge at S.R. 1307 intersection)

Cane Creek (S.R. 1219 to N.C. 226 bridge)

East Fork Grassy Creek

Grassy Creek (East Fork Grassy Creek to mouth)

Little Rock Creek (Green Creek bridge to Big Rock Creek, except where posted against trespassing)

North Toe River (Avery Co. line to S.R. 1121 bridge)

(C) Wild Trout Waters are as follows:

Green Creek (headwaters to Green Creek bridge, except where posted against trespassing)

Little Rock Creek (above Green Creek bridge, including all tributaries, except where posted against trespassing)

Wiles Creek (game land boundary to mouth)

(17) Polk County

(A) Delayed Harvest Trout Waters are as follows:

Green River (Fishtop Falls Access Area to the confluence with Cove Creek)

(B) Hatchery Supported Trout Waters are as follows:

Green River (Mouth of Cove Creek to the natural gas pipeline crossing)

North Pacolet River (Joels Creek to N.C. 108 bridge)

(18) Rutherford County

(A) Hatchery Supported Trout Waters are as follows:

(Rocky) Broad River (Henderson Co. line to U.S. 64/74 bridge, except where posted against trespassing)

(19) Stokes County

(A) Hatchery Supported Trout Waters are as follows:

Dan River (Virginia state line downstream to a point 200 yards below the end of S.R. 1421)

(20) Surry County

(A) Delayed Harvest Trout Waters are as follows:

Ararat River (portion adjacent to the Ararat River Greenway)

Mitchell River (0.6 miles upstream of the end of S.R. 1333 to the lowermost bridge on S.R. 1330)

(B) Hatchery Supported Trout Waters are as follows:

Ararat River (S.R. 1727 bridge downstream to the N.C. 103 bridge)

Big Elkin Creek (dam 440 yards upstream of N.C. 268 bridge to a point 265 yards downstream of N.C. 268 [marked by a sign on each bank])

Fisher River (Cooper Creek)(Virginia state line to I-77 bridge)

Little Fisher River (Virginia state line to N.C. 89 bridge)

Lovills Creek (U.S. 52 Business bridge to Ararat River)

Pauls Creek (Virginia state line to .3 miles below S.R. 1625 bridge)

(21) Swain County

(A) Delayed Harvest Waters Trout Waters are as follows:

Tuckasegee River (U.S. 19 bridge to Slope Street bridge)

(B) Hatchery Supported Trout Waters are as follows:
Alarka Creek (game land boundary to Fontana Reservoir)
Calderwood Reservoir (Cheoah Dam to Tennessee state line)
Cheoah Reservoir
Connelly Creek (Camp Branch to Tuckasegee River)
Deep Creek (Great Smoky Mountains National Park Boundary line to Tuckasegee River)
Nantahala River (Macon Co. line to existing Fontana Lake water level)

(22) Transylvania County
(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan ~~Creek)~~ Creek, Cedar Rock Creek [tributary to the Davidson River at Bobby N. Setzer State Fish Hatchery] and John Rock Branch)
(B) Delayed Harvest Trout Waters are as follows:
East Fork French Broad River (East Fork Baptist Church to the downstream S.R. 1107 bridge)
Little River (confluence of Lake Dense to 100 yards downstream of Hooker Falls)
(C) Hatchery Supported Trout Waters are as follows:
Davidson River (Avery Creek to lower USFS boundary)
French Broad River (confluence of North Fork French Broad River and West Fork)
French Broad River to the Island Ford Rd. [S.R. 1110] Access Area
Middle Fork French Broad River (upstream U.S. 178 bridge to French Broad River)
West Fork French Broad River (S.R. 1312 to confluence with North Fork French Broad River)
(D) Wild Trout Waters are as follows:
All waters located on Gorges State Park
Whitewater River (downstream from Silver Run Creek to South Carolina state line)
(E) Wild Trout Waters/Natural Bait are as follows:
North Fork French Broad River (game land portion downstream of S.R. 1326)
Thompson River (S.R. 1152 to South Carolina state line, except where posted against trespassing)

(23) Watauga County
(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
Laurel Creek (confluence of North and South Fork Laurel creeks to Elk Creek, excluding tributaries)
Pond Creek (headwaters to Locust Ridge Rd. bridge, excluding the pond adjacent to Coffee Lake)
(B) Delayed Harvest Trout Waters are as follows:
Lake Coffey
Watauga River – upper (S.R. 1114 bridge to Valle Crucis Community Park lower boundary)
Watauga River – lower (S.R. 1103 bridge to confluence with Laurel Creek)
(C) Hatchery Supported Trout Waters are as follows:
Beaverdam Creek (confluence of Beaverdam Creek and Little Beaverdam Creek to an unnamed tributary adjacent to the intersection of S.R. 1201 and S.R. 1203)
Beech Creek
Buckeye Creek (Buckeye Creek Reservoir dam to Grassy Gap Creek)
Buckeye Creek Reservoir
Cove Creek (S.R. 1233 bridge at Zionville to S.R. 1214 bridge at Sherwood)
Dutch Creek ~~(second bridge on S.R. 1134~~ (S.R. 1136 bridge to mouth)
Elk Creek (S.R. 1510 bridge at Triplett to Wilkes Co. line, except where posted against trespassing)
Laurel Creek (S.R. 1123 bridge at S.R. 1157 intersection to Watauga River)
Meat Camp Creek (S.R. 1340 bridge at S.R. 1384 intersection to N.C. 194)
Middle Fork New River (adjacent to intersection of S.R. 1539 and U.S. 321 to South Fork New River)
Norris Fork Creek
South Fork New River (canoe launch 70 yards upstream of U.S. 421 bridge to lower boundary of Brookshire Park)
Stony Fork (S.R. 1500 bridge at S.R. 1505 intersection to Wilkes Co. line)
(D) Wild Trout Waters are as follows:
Dutch Creek (headwaters to ~~second bridge on S.R. 1134)~~ S.R. 1136 bridge)
Howard Creek

Maine Branch (headwaters to North Fork New River)
North Fork New River (from confluence with Maine and Mine branches to Ashe Co. line)
Watauga River (Avery Co. line to S.R. 1580 bridge)
Winkler Creek (lower bridge on S.R. 1549 to confluence with South Fork New River)

(24) Wilkes County
(A) Delayed Harvest Trout Waters are as follows:
East Prong Roaring River (Bullhead Creek downstream to Stone MountainState Park lower boundary)
Elk Creek — upper (Watauga Co. line to lower boundary of the Blue Ridge Mountain Club)
Elk Creek — lower (portion on Leatherwood Mountains development)
Reddies River (Town of North Wilkesboro water intake dam to confluence with the Yadkin River)
Stone Mountain Creek (from falls at Alleghany Co. line to confluence with East Prong Roaring River and Bullhead Creek)
(B) Hatchery Supported Trout Waters are as follows:
Basin Creek (S.R. 1730 bridge to confluence with Lovelace Creek)
Bell Branch Pond
Boundary Line Pond
Cub Creek (.5 mile upstream of S.R. 2460 bridge to S.R. 1001 bridge)
Darnell Creek (North Prong Reddies River)(downstream ford on S.R. 1569 to confluence with North Fork Reddies River)
East Prong Roaring River (Stone Mountain State Park lower boundary to S.R. 1002 bridge)
Fall Creek (S.R. 1300 bridge to confluence with South Prong Lewis Fork, except where posted against trespassing)
Middle Fork Reddies River (Clear Prong)(headwaters to bridge on S.R. 1580)
Middle Prong Roaring River (headwaters to second bridge on S.R. 1736)
North Fork Reddies River (Vannoy Creek)(headwaters to Union School bridge on S.R. 1559)
Pike Creek
Pike Creek Pond
South Fork Reddies River (S.R. 1355 bridge to confluence with Middle Fork Reddies River)
South Prong Lewis Fork (Fall Creek to U.S. 421 bridge adjacent to S.R. 1155 intersection)
(C) Wild Trout Waters are as follows:
All waters located on Stone Mountain State Park, except East Prong Roaring River from Bullhead Creek downstream to the Stone Mountain State Park lower boundary where Delayed Harvest Trout Waters regulations apply, and Stone Mountain Creek from falls at Alleghany County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park where Delayed Harvest Trout Waters regulations apply

(25) Yancey County
(A) Catch and Release/Artificial Flies and Lures Only Trout Waters are as follows:
South Toe River (headwaters to Upper Creek)
Upper Creek
(B) Delayed Harvest Trout Waters are as follows:
Cane River (Blackberry Ridge Rd. to downstream boundary of Cane River County Park)
(C) Hatchery Supported Trout Waters are as follows:
Bald Mountain Creek (except where posted against trespassing)
Cane River (Bee Branch [S.R. 1110] to Bowlens Creek)
Price Creek (junction of S.R. 1120 and S.R. 1121 to Indian Creek)
South Toe River (Clear Creek to lower boundary line of Yancey Co. Recreation Park, except where posted against trespassing)
(D) Wild Trout Waters are as follows:
Cattail Creek (bridge at Mountain Farm Community Rd. to N.C. 197 bridge)
Lickskillet Creek
Middle Creek (game land boundary to mouth)

Authority G.S. 113-272; 113-292.

15A NCAC 10C .0206 TROTLINES, JUG HOOKS AND SET HOOKS

(a) For purposes of this Rule, the following definitions apply:
(1) "set hook" means a fishing device consisting of a single line having no more than three hooks

that is attached at one end only to a stationary object.

(2) "jug hook" means a fishing device consisting of a single line having no more than three hooks that is attached to a float.

(3) "trotline" means a fishing device consisting of a horizontal common line having multiple hooks attached.

(b) Trotlines, jug hooks, and set hooks may be set in the inland waters of North Carolina, provided no live bait is used, except that they:

(1) may not be set in any of the impounded waters on the Sandhills Game Land;

(2) may not be set in any designated public mountain trout waters except impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing; and

(3) in Lake Waccamaw, trotlines, jug hooks, or set hooks may be set only from October 1 through April 30.

(4) in the Roanoke River, trotlines, jug hooks, or set hooks may only be set from July 1 through March 31.

(c) Each trotline, set hook, and jug hook shall bear legible and indelible identification of the user's name and address or the user's Wildlife Resources Commission customer number.

(d) Each trotline and set hook shall be conspicuously marked at each end with a flag, float, or other prominent object so that its location is readily discernible by boat operators and swimmers.

(e) Trotlines shall be set parallel to the nearest shore in all inland fishing waters unless otherwise prohibited.

(f) The number of jug hooks that may be fished is limited to 70 per boat.

(g) All trotlines, set hooks, and jug hooks shall be fished at least once daily with all fish removed.

(h) Trotlines, set hooks, and jug hooks without bait or not labeled as described in this Paragraph may be removed from the water by wildlife enforcement officers.

(i) It is unlawful to use metal cans or glass jugs as floats.

Authority G.S. 113-134; 113-272; 113-292.

SECTION .0300 - GAME FISH

15A NCAC 10C .0302 MANNER OF TAKING INLAND GAME FISHES

(a) Inland game fishes may only be taken with hook and line unless otherwise provided.

(b) Landing nets may be used to land fishes caught on hook and line.

(c) Game fishes taken incidental ~~to:~~ to

~~(1) commercial fishing operations in joint fishing waters or coastal fishing waters shall be immediately returned to the water unharmed.~~

~~(2)~~ the use of special devices for taking nongame fishes from inland fishing waters as authorized in ~~Rule .0402 of this Subchapter~~ 15A NCAC 10C .0402 or as authorized by 15A NCAC 10C .0407 by anglers licensed under G.S. 113-272.2(c) shall be immediately returned to the water unharmed except:

~~(A)~~(1) that a daily creel limit of American and hickory shad may be taken with dip nets and bow nets from March 1 through April 30 in those waters where such gear may be lawfully used; and

~~(B)~~(2) white perch may be taken when captured in a cast net being used to collect nongame fishes in all impounded waters west of Interstate 95 and in the Tar River Reservoir (Nash County).

(d) Inland game fishes taken from Inland Fishing Waters shall not be sold.

(e) In the inland waters of the Roanoke River upstream of U.S. 258 bridge, only a single barbless circle hook may be used when fishing with live or natural bait from April 1 to June 30. With all other tackle, only a single barbless hook ~~or a lure with a single barbless hook~~ may be used. ~~used from 1 April to 30 June.~~ "Circle hook" as used in this Rule means a hook with the point turned perpendicularly back to the shank. "Barbless" as used in this Rule requires that the hook does not have a barb or the barb is bent down.

Authority G.S. 113-134; 113-272.3; 113-292.

15A NCAC 10C .0306 CRAPPIE

(a) There is no daily creel limit for Crappie, except for waters identified in Paragraphs ~~(b), (c), (d), (e), and (f)~~(d) through (h) of this Rule.

(b) There is no minimum size limit ~~for these fish,~~ except ~~for~~ in waters identified in Paragraphs ~~(d), (e), and (f).~~ (f) through (h) of this Rule.

(c) There is no closed season.

~~(b)~~(d) In Buckhorn Reservoir in Wilson and Nash counties, the daily creel limit is 20 fish.

~~(c)~~(e) In Lake Chatuge in Clay County, the daily creel limit is 30 fish.

~~(d)~~(f) In the following waters, the daily creel limit is 20 fish and the minimum size limit is 10 inches:

~~(1) B. Everett Jordan Reservoir;~~

~~(2)~~(1) Roanoke River and its tributaries downstream of Roanoke Rapids dam;

~~(3)~~(2) Cashie River and its tributaries;

~~(4)~~(3) Middle River and its tributaries;

~~(5)~~(4) Eastmost River and its tributaries; and

~~(6)~~(5) Lake Mattamuskeet and associated canals in Hyde County.

~~(e)~~(g) In the following waters, the daily creel limit is 20 fish and the minimum size limit is eight inches:

(1) Lake Norman;

(2) Lake Hyco;

(3) Lake Ramseur;

(4) Cane Creek Lake (Union County);

(5) Lake Hampton (Yadkin County);

(6) Tar River downstream of Tar River Reservoir Dam and all tributaries;

(7) Neuse River downstream of Falls Lake Dam and all tributaries;
(8) Haw River downstream of Jordan Lake Dam and all tributaries;
(9) Deep River downstream of Lockville Dam and all tributaries;
(10) Cape Fear River and all tributaries;
(11) Waccamaw River downstream of Lake Waccamaw Dam and all tributaries;
(12) Lumber River including Drowning Creek and all tributaries;
(13) all other public fishing waters east of Interstate 95, except Tar River Reservoir in Nash County, Sutton Lake in New Hanover County, and waters listed in Paragraph ~~(d)~~(f) of this Rule; and
(14) all public waters west of Interstate 77, except Lake Chatuge.
(15) B. Everett Jordan Reservoir.

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

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

15A NCAC 10C .0314 STRIPED BASS

(a) The daily creel limit for ~~Striped Bass~~ striped bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs ~~(b), (e), (f), (g), (h), (i), and (j)~~ (d) and (g) through (m) of this Rule.
(b) The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs ~~(b), (c), (d), (e), (f), (g), (h), (i), and (j)~~(d) through (m) of this Rule.
(c) There is no closed season, except for waters identified in Paragraphs ~~(g), (h), (i), (j), and (k)~~(i) through (m) of this Rule.
~~(b)~~(d) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on ~~Striped Bass~~ striped bass and its hybrids is two in the aggregate and the minimum size limit is 20 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on ~~Striped Bass~~ striped bass and its hybrids is four in the aggregate with no minimum size limit.
~~(c)~~(e) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for ~~Striped Bass~~ striped bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.
~~(d)~~(f) In ~~Lake Norman,~~ Hyco Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for ~~Striped Bass~~ striped bass and its hybrids is 16 inches.
~~(e)~~(g) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.
~~(f)~~(h) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for ~~Striped Bass~~ striped bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.
~~(g)~~(i) In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95 not specified in Paragraphs ~~(f),~~ (h)~~(i), and (j)~~ and (j) through (l) of this Rule, the daily creel limit for ~~Striped Bass~~ striped bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing ~~Striped Bass~~ striped bass is closed from May 1 through September 30.
~~(h)~~(j) ~~In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam and in~~ The ponds associated with Martin Marietta Park in Craven County, the season for taking and possessing ~~Striped Bass~~ striped bass is closed year-round.
(k) In the inland fishing waters of the Cape Fear River from Lock and Dam 1 upstream to Buckhorn Dam and its tributaries, the daily creel limit for striped bass and its hybrids is two fish. The minimum size limit is 18 inches. In these waters, the season for taking and possessing Striped Bass is closed from May 1 through the last day in February.
~~(i)~~(l) In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .011 which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing ~~Striped Bass~~ striped bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for ~~Striped Bass~~ striped bass and its hybrids is ~~two~~ one fish in the aggregate, and the minimum size limit is 18 inches. No fish ~~between~~ over 22 inches ~~and 27 inches~~ in length shall be possessed in the daily creel limit. ~~Only one fish larger than 27 inches may be possessed in the daily creel limit.~~
~~(j)~~(m) In designated inland and joint fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), the ~~Striped Bass~~ striped bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent ~~joint or~~ coastal fishing waters.
~~(k)~~(n) In accordance with G.S. 113-292, the Executive Director may, by proclamation, ~~suspend,~~ suspend or extend the hook-and-line season for ~~Striped Bass~~ striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.

Authority G.S. 113-134; 113-292; 113-304; 113-305.

SECTION .0400 – JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS

15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES

(a) Except as permitted by the rules in this Section, ~~it is unlawful~~ no person shall ~~to~~ take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and

line, grabbling, or special device with a special device fishing ~~license.~~ license, or inland fishing license.

(b) Nongame fishes may be taken from inland fishing waters ~~by hook and line, grabbling, or special device with a special device fishing license~~ at any time without restriction as to size limits or creel limits, except as ~~designated~~ specified in this ~~Rule.~~ Section.

(c) Special devices ~~may only be~~ used ~~to take nongame fishes~~ with a special device fishing license shall only be used in those counties and waters with open season designated in ~~Rule .0407 of this Section.~~ 15A NCAC 10C .0407.

(d) Archery equipment ~~may~~ used with either a hunting license or inland fishing license may ~~only~~ be used to take nongame fishes year-round in all inland fishing waters, except:

(1) ~~for the take of catfish on~~ in the Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and in all ~~tributaries.~~ tributaries, where only catfish can be taken;

(2) in impounded waters located on the Sandhills Game Land; and

(3) in public mountain trout waters.

(e) Set hooks, jug hooks, and trotlines may be used to take nongame fishes as designated in 15A NCAC 10C .0206.

(f) The season for taking nongame fishes by hook and line in designated public mountain trout waters is the same as the trout fishing season. Trout seasons are designated in 15A NCAC 10C .0316.

~~(g) Freshwater mussels, including the Asiatic clam (Corbicula fluminea), may be taken only from impounded waters, except mussels shall not be taken in:~~

~~(1) Lake Waccamaw in Columbus County; and~~

~~(2) University Lake in Orange County.~~

~~The daily possession limit for freshwater mussels is 200 in the aggregate, except there is no daily possession limit for the Asiatic clam (Corbicula fluminea).~~

~~(h) Blue crabs shall have a minimum carapace width of five inches (point to point) and it is unlawful to possess more than 50 crabs per person per day or to exceed 100 crabs per vessel per day.~~

~~(i) While boating on or fishing in the following inland fishing waters, no person shall take river herring (alewife and blueback herring) that are greater than six inches in length, or possess such herring regardless of origin in:~~

~~(1) Roanoke River downstream of Roanoke Rapids Dam;~~

~~(2) Tar River downstream of Rocky Mount Mill Dam;~~

~~(3) Neuse River downstream of Falls Lake Dam;~~

~~(4) Cape Fear River downstream of Buckhorn Dam;~~

~~(5) Pee Dee River downstream of Blewett Falls Dam;~~

~~(6) Lumber River, including Drowning Creek;~~

~~(7) all the tributaries to the rivers listed above; and~~

~~(8) all other inland fishing waters east of I-95.~~

~~(j) In waters that are stocked and managed for catfish and located on game lands, on Commission owned property, or on the property of a cooperator, including waters within the Community Fishing Program, it is unlawful to take channel or blue catfish by means other than hook and line; the daily creel limit for channel catfish is seven. Waters where this creel limit applies shall be posted on site with signs indicating the creel limit.~~

~~(k) The daily creel limit for blue catfish greater than 32 inches is one fish in the following waters:~~

~~(1) Lake Norman;~~

~~(2) Mountain Island Lake;~~

~~(3) Lake Wylie;~~

~~(4) Badin Lake;~~

~~(5) Lake Tillery;~~

~~(6) John H. Kerr Reservoir (North Carolina portion);~~

~~(7) Dan River (Downstream of the Union Street Dam in Danville, VA);~~

~~(8) Lake Gaston (North Carolina portion); and~~

~~(9) Roanoke Rapids Reservoir.~~

~~(l) The daily creel limit is five catfish in aggregate on the Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and all tributaries.~~

~~(m) The daily creel limit for American eels taken from or possessed, regardless or origin, while boating on or fishing in inland fishing waters is 25, and the minimum size limit is 9 inches. Eels greater than 9 inches in length and with a minimum body depth greater than ½ inch may be cut for use as bait.~~

~~(n) Grass carp shall not be taken or possessed on Lake James, Lookout Shoals Lake, Mountain Island Reservoir, and Lake Wylie, except that one fish per day may be taken with archery equipment.~~

~~(o) Grass carp shall not be taken or possessed on Lake Norman and the North Carolina portion of John H. Kerr Reservoir, except for scientific study by permit issued by the Wildlife Resources Commission.~~

~~(p) In inland fishing waters, gray trout (weakfish) recreational seasons, size limits, and creel limits are the same as those established by Marine Fisheries Commission rule or proclamations issued by the Fisheries Director in adjacent joint or coastal fishing waters.~~

~~(q) No person while fishing shall remove the head or tail or otherwise change the appearance of any nongame fish specified in Paragraphs (h), (i), (k), (m), and (p) of this Rule having a size limit so as to render it impractical to measure its total original length, except as provided in Paragraph (m) of this Rule. No person while fishing shall change the appearance of any nongame fish specified in Paragraphs (g), (h), (j), (k), (l), (m), (n), (o), and (p) of this Rule having a daily creel limit so as to obscure its identification or render it impractical to count the number of fish in possession, except as provided in Paragraph (m) of this Rule.~~

~~(r)~~(g) Nongame fishes taken by hook and line, grabbling, or by special device with a special device fishing license may be ~~sold,~~ sold unless otherwise specified in this Section. ~~with the following exceptions~~:

~~(1) alewife and blueback herring, excluding those less than six inches in length collected from Kerr Reservoir (Granville, Vance, and Warren counties);~~

~~(2) blue crab; and~~

~~(3) bowfin.~~

~~(s) Margined madtom and tadpole madtom shall not be taken or possessed from inland fishing waters.~~

(h) In the inland waters of the Roanoke River upstream of U.S. 258 bridge, only a single barbless circle hook may be used when fishing with live or natural bait from April 1 to June 30. With all other tackle, only a single barbless hook may be used. "Circle hook" as used in this Rule means a hook with the point turned perpendicularly back to the shank. "Barbless" as used in this Rule requires that a hook does not have a barb or the barb is bent down.

Authority G.S. 113-134; 113-272; 113-292.

SUBCHAPTER 10D - GAME LANDS REGULATIONS

SECTION .0100 - GAME LANDS REGULATIONS

15A NCAC 10D .0102 GENERAL REGULATIONS REGARDING USE

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

(1) "Permanent Hunting Blind" means any structure that is used for hunter concealment, constructed from manmade or natural materials, and that is not disassembled and removed at the end of each day's hunt.

(2) "Target shooting" means the discharge of a firearm for purposes other than hunting, trapping, or self-defense.

(3) "Youth" means individuals under 18 years of age.

(b) Trespass. Entry on game lands for purposes other than hunting, trapping, or fishing shall be as authorized by the landowner. The Wildlife Resources Commission has identified the following areas on game lands that have additional restrictions on entry or usage:

(1) Archery Zone. On portions of game lands posted as "Archery Zones" hunting is limited to bow and arrow hunting and falconry only. On these areas, deer of either sex may be taken on all open days of any applicable deer season.

(2) Safety Zone. On portions of game lands posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or bow and arrow within, into, or across a posted safety zone on any game land. Falconry is exempt from this provision.

(3) Restricted Firearms Zone. On portions of game lands posted as "Restricted Firearms Zones" the use of centerfire rifles is prohibited.

(4) Restricted Zone. Portions of game lands posted as "Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for establishing the Restricted Zone and the person or persons requesting entry are able to demonstrate a valid need or such person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific investigations, surveys, or other access to conduct activities in the public interest.

(5) Temporary Restricted Zone. Portions of game lands posted as "Temporary Restricted Zones" are closed to all use by the general public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission. An area of a game land may be declared a Temporary Restricted Zone when there is a danger to the health or welfare of the public.

(6) Scouting-only Zone. On portions of the game lands posted as "Scouting-only Zones" the discharge of firearms or bow and arrow is prohibited.

(7) Restricted Deer Hunting Zone. On portions of game lands posted as "Restricted Deer Hunting Zones" the use of dogs for taking deer is prohibited, except as allowed by permit as provided in G.S. 113-264(d).

(8) Day Use Only Zone. On portions of game lands posted as "Day Use Only Zones" the use by the general public shall be prohibited from sunset to sunrise.

(9) Sensitive Habitat Zone. Portions of game lands posted as "Sensitive Habitat Zones" are closed to all use by the general public during the dates specified on the sign, and entry upon such an area for any purpose is prohibited without first obtaining written approval of such entry or use from an authorized agent of the Wildlife Resources Commission by calling 919-707-0150 and requesting a permit.

The Commission shall conduct a public input meeting in the area where the game land is located before establishing the following zones: archery, restricted firearms, restricted deer hunting, day use only, or sensitive habitat. After the input meeting, the public comments shall be presented at an official Commission meeting for final determination.

(c) Littering. No person shall deposit any litter, trash, garbage, or other refuse at any place on any game land except in receptacles provided for disposal of such refuse at designated camping and target-shooting areas. No garbage dumps or sanitary landfills shall be established on any game land by any person, firm, corporation, county, or municipality, except as permitted by the landowner.

(d) Use of weapons. No person shall discharge:

(1) any weapon within 150 yards of any game land building or designated game land camping area, except where posted otherwise;

(2) any weapon within 150 yards of any residence located on or adjacent to game lands, except on Butner-Falls of Neuse and Jordan game lands; and

(3) any firearm within 150 yards of any residence located on or adjacent to Butner-Falls of Neuse and Jordan Game Lands.

No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting on any posted waterfowl impoundment on any game land, except shotgun shells containing lead buckshot may be used while deer hunting. Every individual carrying a concealed handgun shall adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina. On Butner-Falls of Neuse, Jordan, Kerr Scott, and Vance game lands, no person shall possess loaded firearms, ammunition, bows and arrows, crossbows, or other weapons except as provided in the Code of Federal Regulations, Title 36, Chapter III, Part 327.13, which is incorporated by reference, including subsequent amendments and editions, free of charge, at:
http://www.ecfr.gov/cgi-bin/text-idx?SID=75b0c14fb2c26906cf64a267eb69b052&mc=true&node=se36.3.327_113&rgn=div8. On Buckhorn, Chatham, Harris, Hyco, Lee, Mayo, and Sutton Lake game lands; Pee Dee River Game Land north of U.S. 74; and that portion of R. Wayne Bailey- Caswell Game Land that is located north of U.S. 158 and east of N.C. 119, no person shall possess a firearm during closed hunting seasons or closed hunting days for game birds or game animals, except under the following conditions:

(1) the firearm is a .22 caliber pistol with a barrel not greater than seven and one-half inches in length and shooting only short, long, or long rifle ammunition carried as a side arm;
(2) the firearm is cased or not immediately available for use;
(3) the firearm is used by persons participating in field trials on field trial areas; or
(4) the firearm is possessed in designated camping areas for defense of persons and property.

(e) Game Lands License: Hunting and Trapping

(1) Requirement. Except as provided in Subparagraph (4) of this Paragraph, any person entering upon any game land for the purpose of hunting, trapping, running dogs, or training dogs using wildlife shall have in his or her possession a game lands license in addition to the appropriate hunting or trapping license, or a license that conveys the game land use privilege.
(2) For Commission-sanctioned field trials, active participants (as defined in 15A NCAC 10B .0114) in a field trial using wildlife shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege, except non-residents may substitute hunting licenses from their state(s) of residence.
(3) For any other field trial using wildlife occurring on game lands, judges and active participants shall possess a game lands license in addition to the appropriate North Carolina hunting license, or a license that conveys the game land use privilege.
(4) Exceptions:
(A) a person under 16 years of age may hunt on game lands on the license of his parent or legal guardian;
(B) on the game lands described in Rule .0103(e)(1) of this Section, the game lands license is required only for hunting doves; all other activities are subject to the control of the landowners.

(f) Field Trials and Training Dogs. Any individual or organization sponsoring a field trial on the Sandhills Field Trial area shall file with the Commission an application to use the area and facility accompanied by the facility use fee computed at the rate of ~~two hundred dollars ($200.00)~~ three hundred dollars ($300.00) for each scheduled day of the trial. The total facility use fee shall cover the period from 12:00 noon of the day preceding the first scheduled day of the trial to 10:00 a.m. of the day following the last scheduled day of the trial. The facility use fee shall be paid for all intermediate days on which for any reason trials are not run but the building or facilities are used or occupied. A fee of ~~seventy five dollars ($75.00)~~ one hundred dollars ($100.00) per day shall be charged to sporting, educational, or scouting groups for scheduled events utilizing the club house only. No person or group of persons or any other entity shall enter or use in any manner any of the physical facilities located on the Sandhills Field Trial area without first having obtained written approval of such entry or use from an authorized agent of the Wildlife Resources Commission, and no such entry or use of any such facility shall exceed the scope of or continue beyond the approved use. The Sandhills Field Trial facilities shall be used only for field trials scheduled with the approval of the Wildlife Resources Commission. No more than ~~16~~ 20 days of field trials may be scheduled for occurrence on the Sandhills facilities during any calendar month, and no more than ~~four~~ five days may be scheduled during any calendar week; provided, that a field trial requiring more than ~~four~~ five days may be scheduled during one week upon reduction of the maximum number of days allowable during some other week so that the monthly maximum of ~~16~~ 20 days is not exceeded. Before October 1 of each year, the North Carolina Field Trial Association or other organization desiring use of the Sandhills facilities between the Wednesday on or nearest October 18 ~~October 22~~ and ~~November 18~~ the second Friday before Thanksgiving and between ~~December 3~~ the first Monday following Thanksgiving and March 31 shall submit its proposed schedule of such use to the Wildlife Resources Commission for its consideration and approval. The use of the Sandhills Field Trial facilities at any time by individuals for training dogs is prohibited; elsewhere on the Sandhills Game Lands dogs may be trained only on Mondays, Wednesdays, and Saturdays from October 1 through April 1. Dogs may not be trained or permitted to run unleashed from April 1 through August 15 on any game land located west of I-95, except when participating in field trials sanctioned by the Wildlife Resources Commission. Dogs may not be trained or permitted to run unleashed from March 15 through June 15 on any game land located east of I-95, except when participating in field trials

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

(g) Trapping. Subject to the restrictions contained in 15A NCAC 10B ~~.0110,~~ .0302, ~~and~~ .0303, and .0306 trapping of furbearing animals, armadillos, coyotes, and groundhogs is permitted on game lands during the applicable open trapping seasons established by rule. Foxes can be trapped on game lands from ~~November 1~~ October 1 through the end of February in any county with an open fox trapping season that falls between ~~November 1~~ October 1 and the end of February. Foxes may not be taken by trapping on game lands in counties with a closed fox trapping season or during any fox trapping season that occurs outside the dates of ~~November 1~~ October 1 through the end of February. Additionally, fox trapping is allowed on game lands in Clay, Graham, Henderson, Macon, and Tyrrell counties with a daily bag limit of two and a season bag limit of 10 from the first to the fourth Saturday in January. Trapping is prohibited:

(1) on the J Robert Gordon Field Trial Area of Sandhills Game Land;
(2) in posted "safety zones" located on any game land;
(3) by the use of bait on the National Forest Lands bounded by the Blue Ridge Parkway on the south, US 276 on the north and east, and NC 215 on the west;
(4) on the John's River Waterfowl Refuge in Burke County;
(5) on the DuPont State Forest Game Lands; and
(6) from April 1 through ~~October~~ September 31.

At each trap, trappers may use a single bait site of grain, fruit, or other foods when trapping if the food is not a processed food product as defined in G.S. 113-294(r), is less than three cubic inches and is covered to prevent it from being seen from above. Feathers, including those with attached skin or entire bird wings, hair with or without skin or hide, and bones that include no attached meat, organs, or viscera do not need to be covered.

(h) Vehicular Traffic. No person shall drive a motorized vehicle on any game land except on those roads constructed, maintained, and opened for vehicular travel and those trails posted for vehicular travel, unless such person:

(1) is driving in the vehicle gallery of a scheduled bird dog field trial held on the Sandhills Game Land; or
(2) is a disabled sportsman as defined in Paragraph (k) of this Rule or holds a Disabled Access Program Permit as described in Paragraph (m) of this Rule and is abiding by the rules described in Paragraph (m).

(i) Camping.

(1) No person shall camp on any game land except on an area ~~designated~~ posted by the landowner for camping.
(2) On game lands owned by the State of North Carolina, where the North Carolina Wildlife Resources Commission is the primary custodian, the maximum period of consecutive overnight camping at any designated camping area is 14 days within any 30-day period, ~~period from May 1 through August 31,~~ unless otherwise specified in rules of this Subchapter. After 14 consecutive days of camping, all personal belongings shall be removed from the game land.
(3) A hunting, fishing, trapping or Game Lands License is required for individuals age 16 or older to camp on game lands in areas posted for camping except when camping within 100 yards of the Roanoke River on the state-owned portion of the Roanoke River Wetlands Game Land, within 100 yards of the Neuse River on that portion of the game land west of NC-43, and in posted areas along the Mountains-to-Sea Trail on Butner-Falls of Neuse Game Land.

~~(j) Swimming. Swimming is prohibited in the lakes located on the Sandhills Game Land.~~

(k) Disabled Sportsman Program. In order to qualify for permit hunts for disabled sportsmen offered by the Commission and use of designated blinds during those hunts, an individual shall possess a Disabled Veteran Sportsman license, a Totally Disabled Sportsman license, or a disabled sportsman hunt certification issued by the Commission. In order to qualify for the certification, the applicant shall provide medical certification of one or more of the following disabilities:

(1) missing 50 percent or more of one or more limbs, whether by amputation or natural causes;
(2) paralysis of one or more limbs;
(3) dysfunction of one or more limbs rendering the person unable to perform the task of grasping and lifting with the hands and arms or unable to walk without mechanical assistance, other than a cane;
(4) disease, injury, or defect confining the person to a wheelchair, walker, or crutches; or
(5) deafness.

On game lands where the privileges described in Paragraph (m) of this Rule apply, participants in the program may operate electric wheel chairs, all terrain vehicles, or other passenger vehicles:

(1) on ungated or open-gated roads normally closed to vehicular traffic; and
(2) on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel.

Each program participant may be accompanied by one companion provided such companion has in his possession the companion

card issued by the Commission. Hunters who qualify under the Disabled Sportsman Program and their companions may access special hunting blinds for people with disabilities during regularly scheduled, non-permit hunting days on a first come basis, except for those blinds located on the Restricted Area of Caswell Game Land.

(l) Release of Animals and Fish. It is unlawful to release pen-raised animals or birds, wild animals or birds, domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes, or feral animals, or hatchery-raised fish on game lands without prior written authorization. It is unlawful to move wild fish from one stream to another on game lands without prior written authorization. Written authorization shall be given when release of such animals is determined by a Wildlife Resources Commission biologist not to be harmful to native wildlife in the area and such releases are in the public interest or advance the programs and goals of the Wildlife Resources Commission.

(m) Non-Highway Licensed Vehicles. It is unlawful to operate motorized land vehicles not licensed for highway use on Game Lands except for designated areas on National Forests. Disabled persons as defined in Paragraph (k) of this Rule and people who have obtained a Disabled Access Program permit are exempt from the previous sentence but shall comply with the terms of their permit. Furthermore, disabled persons, as defined under the federal Americans with Disabilities Act (42 U.S.C. 126) may use wheelchairs or other all-terrain wheel chairs ~~mobility devices designed for indoor pedestrian use~~ on any area where foot travel is allowed. Off road vehicles including ATVs , UTVs, and ebikes are not permitted.

(n) Disabled Access Program. Permits issued under this program shall be based upon medical evidence submitted by the person verifying that a handicap exists that limits physical mobility to the extent that normal utilization of the game lands is not possible without vehicular assistance. Persons meeting this requirement may operate electric wheel chairs, all terrain vehicles, and other passenger vehicles on any Commission-maintained road open for vehicular travel and those trails posted for vehicular travel and ungated or open-gated roads otherwise closed to vehicular traffic on game lands owned by the Wildlife Resources Commission and on game lands whose owners have agreed to such use. Those game lands, or parts thereof, where this Paragraph applies are designated online, at www.ncwildlife.org. This Paragraph does not permit vehicular access on fields, openings, roads, paths, or trails planted for wildlife food or cover. One companion, who is identified by a companion card issued to each qualified disabled person, may accompany a disabled person to provide assistance, provided the companion is at all times in visual or verbal contact with the disabled person. The companion may participate in all lawful activities while assisting a disabled person, provided license requirements are met. Any vehicle used by a qualified disabled person for access to game lands under this provision shall display the vehicular access permit issued by the Wildlife Resources Commission in the passenger area of the vehicle where it can easily be seen by Commission staff outside the vehicle. It is unlawful for anyone other than disabled persons as defined in Paragraph (k) of this Rule and those holding a Disabled Access Permit to hunt, during waterfowl season, within 100 yards of a waterfowl blind designated by the Wildlife Resources Commission as a Disabled Sportsman's hunting blind.

(o) Public nudity. Public nudity, including nude sunbathing, is prohibited on any game land, including land or water. For the purposes of this Section, "public nudity" means a person's intentional failure to cover with a fully opaque covering the person's genitals, pubic area, anal area, or female breasts below a point from the top of the areola while in a public place.

(p) Shooting Ranges. On public shooting ranges managed by the Commission, no person shall use designated shooting ranges for any purpose other than for firearm or bow and arrow marksmanship, development of shooting skills, or for other safe uses of firearms and archery equipment. All other uses, including camping, building fires, operating concessions or other activities not directly involved with recreational or competitive shooting are prohibited, except for activities that have been approved by the Commission and for which a permit has been issued may be conducted, provided that the permit authorizing such activity is available for inspection by wildlife enforcement officers at the time the activity is taking place. No person, when using any shooting range, shall deposit any debris or refuse on the grounds of the range. This includes any items used as targets, except that clay targets broken on the range, by the shooter, may be left on the grounds where they fall. No person shall shoot any items made of glass on the grounds of the range. No person may leave any vehicle or other obstruction in such a location or position that it will prevent, impede, or inconvenience the use by other persons of any shooting range. No person shall leave parked any vehicle or other object at any place on the shooting range other than such a place or zone as is designated as an authorized parking zone and posted or marked as such. No person shall handle any firearms or bow and arrow on a shooting range in a careless or reckless manner. No person shall intentionally shoot into any target holder, post, or other permanent fixture or structure while using a shooting range. No person shall shoot a firearm in a manner that would cause any rifled or smoothbore projectiles to travel off of the range, except that shotgun shot, size No. 4 or smaller may be allowed to travel from the range if it presents no risk of harm or injury to any person(s). Persons using a shooting range shall obey posted range safety rules and those persons who violate range safety rules or create a public safety hazard shall leave the shooting range if directed to by law enforcement officers or to leave by Commission employees. No person shall handle any firearms on a shooting range while under the influence of an impairing substance. The consumption of alcohol or alcoholic beverages on a shooting range is prohibited. Open days and hours of operation shall be designated on signs and at least one such sign shall be posted at the entrance to each shooting range. No person, when using any shooting range, shall do any act that is prohibited or neglect to do any act that is required by signs or markings placed on such area under authority of this Rule for the purpose of regulating the use of the area.

(q) Limited-access Roads. During the months of June, July, and August, roads posted as "Limited-access Roads" are open to motorized vehicles from 5:00 a.m. to 10:00 p.m. only. These roads shall be posted with the opening and closing times.

(r) No person shall attempt to obscure the sex or age of any bird or animal taken by severing the head or any other part thereof, or possess any bird or animal that has been so mutilated.

(s) Baiting. Except as provided in Paragraph (g) of this Rule, no person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization from an agent of the Commission. Written authorization may be provided for Commission authorized projects or Commission contractors to meet specific objectives. Except as authorized by rule, no person shall take or attempt to take any wild birds or wild animals attracted to such foods.

Authority G.S. 113-129; 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 143-318.10.

15A NCAC 10D .0103 HUNTING ON GAME LANDS

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

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

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

(a) The following shall be prohibited on game lands:

(1) hunting on any designated game land while under the influence of alcohol or any narcotic drug;

(2) failing to comply with restrictions enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands;

(3) parking a vehicle on game lands in such a manner as to block traffic or gates, or otherwise prevent vehicles from using any roadway; and

(4) erecting or occupying any tree stand or platform attached by nails, screws, bolts, or to a tree on any game land while for the purpose of hunting. This prohibition does not apply to lag-screw steps or portable stands that are removed after use with no metal remaining in or attached to the tree.

~~(d)~~(b) ~~Time and Manner of Taking. Hunting is allowed on game lands only during the open season for game animals and game birds, unless hunting is allowed by permit.~~ Unless allowed by permit, hunting on game lands shall only be during the open season for game animals and game birds. ~~Individual game lands or parts thereof may be closed to hunting or limited to specific dates by this Chapter. Persons shall hunt only with weapons lawful for the open game animal or game bird seasons.~~

~~(1) On managed waterfowl impoundments, persons shall:~~

~~(A) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;~~

~~(B) not hunt after 1:00 p.m. on such hunting dates;~~

~~(C) not set decoys out prior to 4:00 a.m.;~~

~~(D) remove decoys by 3:00 p.m. each day; and~~

~~(E) not operate any vessel or vehicle powered by an internal combustion engine.~~

~~(2) On Sundays, the following shall be prohibited:~~

~~(A) hunting with a firearm between 9:30 a.m. and 12:30 p.m.;~~

~~(B) the use of a firearm to take deer that are run or chased by dogs;~~

~~(C) hunting with a firearm within 500 yards of a place of religious worship, as defined by G.S. 14-54.1(b), or any accessory structure thereof, and~~

~~(D) hunting migratory game birds.~~

(c) Individual game lands or parts thereof may be closed to hunting or limited to specific dates by this Subchapter.

(d) Persons shall hunt only with weapons lawful for the open game animal or game bird seasons.

(e) On managed waterfowl impoundments, persons shall:

(1) not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates;

(2) not hunt after 1:00 p.m. on such hunting dates;

(3) not set decoys out prior to 4:00 a.m.;

(4) remove decoys by 3:00 p.m. each day; and

(5) not operate any vessel or vehicle powered by an internal combustion engine.

(f) On Sundays, the following shall be prohibited:

(1) hunting with a firearm between 9:30 a.m. and 12:30 p.m.;

(2) the use of a firearm to take deer that are run or chased by dogs;

(3) hunting with a firearm within 500 yards of a place of religious worship, as defined by G.S. 14-54.1(b), or any accessory structure thereof, and

(4) hunting migratory game birds.

~~On designated youth waterfowl days, youths may hunt on managed waterfowl impoundments from ½ hour before sunrise to sunset. On designated veterans and military waterfowl days, veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit only areas from ½ hour before sunrise to sunset. Restrictions (1)(A), (1)(C), and (1)(E) in this Paragraph shall apply. On waterfowl impoundments that have a posted "Scouting only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone."~~

(g) On designated Youth Waterfowl Days the following shall apply:

(1) hunting on managed waterfowl impoundments shall be from one-half hour before sunrise to sunset;

(2) subparagraphs (e)(1), (e)(3), and (e)(5) of this Rule; and

(3) youth may hunt on any game land and on any impoundment without a special hunt permit, including permit-only areas, except where prohibited in Paragraph (a) of this Rule.

(h) On designated Veterans and Military Waterfowl Days veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit-only areas from one-half hour before sunrise to sunset. Subparagraphs (e)(1), (e)(3), and (e)(5) of this Rule shall apply; and

(i) On waterfowl impoundments that have a posted "Scouting-only Zone," trapping during the trapping season and waterfowl hunting on designated waterfowl hunting days are the only activities allowed on the portion of the impoundment outside of the posted "Scouting-only Zone."

~~(e)~~(j) Definitions:

(1) For purposes of this Subchapter, "Dove Only Area" refers to a Game Land on which doves may be taken and dove hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, and New Year's Days within the federally-announced season.

(2) For purposes of this Subchapter, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays, Thanksgiving Day, Christmas Day, Veterans Day, Martin Luther King Day, and New Year's Days, except for game lands in this Rule that specifically allow hunting on Tuesdays, Thursday, and Fridays. Hunting is not allowed on Christmas Day, Veterans Day, and New Year's Day when these holidays fall on Sunday. Falconry may also be practiced on Sundays. These "open days" also apply to either-sex deer hunting seasons listed under each game land. Raccoon and opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.

(3) For purposes of this Subchapter, "Six Days per Week Area" refers to a Game Land on which any game may be taken on the open days of Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday during the open seasons. Falconry may also be practiced on Sundays.

(4) For purposes of this Subchapter, "Seven Days per Week Area" refers to a Game Land on which game may be taken during the open season on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays, Saturdays, and Sundays.

(5) For purposes of this Subchapter, "Four Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Tuesdays, Thursdays, Saturdays, ~~and Sundays.~~ Sundays, Labor Day, Veterans Day, Christmas Day, New Year's Day, and Martin Luther King Day. Raccoon and opossum hunting may continue until 7:00 a.m. on Wednesdays, 7:00 a.m. on Fridays, and 7:00 a.m. on Mondays.

(6) For purposes of this Subchapter, "Permit Only" means areas on which species take or activities listed shall be during the applicable season(s) by permit only subject to annual limitations imposed by the Commission to meet wildlife, hunter, or land management objectives, unless otherwise specified. Individuals may apply for available opportunity permits online at ncwildlife.org, by phone, or in person at a wildlife service agent location. The Commission shall issue permits to applicants selected at random by computer in accordance with G.S. 113-264. Permits shall be non-transferrable. All applicable laws and rules regarding the species or activity shall apply.

(7) For the purposes of this Subchapter, "Either-Sex" means antlered or antlerless.

~~(f)~~(k) ~~Hunting with Dogs on Game Lands.~~ Deer shall not be taken with the use of dogs on game lands in counties or parts of counties where taking deer with dogs is prohibited as described in 15A NCAC 10B .0109.

~~(h)~~(l) On ~~permitted type~~ permit hunts, deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications shall be received by the Commission not later than the first day of September next preceding the dates of hunt. Permits shall be issued by random computer selection, shall be mailed to the permittees prior to the hunt, and are nontransferable. A hunter making a kill shall validate the kill and report the kill to a wildlife cooperator agent or by phone.

~~(i)~~(m) The following game lands and refuges are closed to all hunting except to those individuals who have obtained a valid and current permit from the Wildlife Resources Commission:

(1) Bertie, Halifax and Martin counties—Roanoke River Wetlands;

(2) Bertie County—Roanoke River National Wildlife Refuge;

(3) Bladen County—Suggs Mill Pond Game Lands;

(4) Dare County—Dare Game Lands (Those parts of bombing range posted against hunting);

(5) Dare County—Roanoke Marshes Game Lands; and

(6) Henderson and Transylvania counties—DuPont State Forest Game Lands.

~~(j)~~(n) Access to Hunting Creek Swamp Waterfowl Refuge in Davie County requires written permission from the Commission. Written permission may be granted only when entry onto the Waterfowl Refuge will not compromise the primary purpose for establishing the Waterfowl Refuge and the person requesting entry can demonstrate a valid need or the person is a contractor or agent of the Commission conducting official business. "Valid need" includes issues of access to private property, scientific

investigations, surveys, or other access to conduct activities in the public interest.

~~(k)~~(o) Feral swine may be taken by licensed hunters during the open season for any game animal or game bird using any legal manner of take allowed during those seasons. Dogs may not be used to hunt feral swine except on game lands that allow the use of dogs for hunting deer or bear, and during the applicable deer or bear season.

~~(l) Youth Waterfowl Day. On the day declared by the Commission to be Youth Waterfowl Day, youths may hunt on any game land and on any impoundment without a special hunt permit, including permit only areas, except where prohibited in Paragraph (h) of this Rule.~~

~~(m) Veterans and Military Waterfowl Days. On the day declared by the Commission to be Veterans and Military Waterfowl Days, veterans, as defined in 38 USC 101, and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty other than for training, with valid credentials may hunt on game lands and impoundments not designated as permit only areas.~~

~~(n)~~(p) ~~Permit Hunt Opportunities for Disabled Sportsmen.~~ The Commission may designate special hunts for youth and participants of the disabled sportsman program by permit. The Commission may schedule these permit hunts during the closed season. Hunt dates and species to be taken shall be identified on each permit. If the hunt has a limited weapon choice, the allowed weapons shall be stated on each permit.

~~(o)~~(q) As used in the rules of this subchapter horseback riding includes all equine species.

~~(p)~~(r) When waterfowl hunting is authorized on Christmas and New Years' Day and those days fall on Sundays, the open waterfowl hunting day shall be the following day.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0104 FISHING ON GAME LANDS

(a) When fishing on game lands, all rules in Subchapter 15A NCAC 10C shall apply.

~~(a)~~(b) ~~Generally. Except as otherwise indicated herein, fishing on game lands that are open to fishing shall be in accordance with the North Carolina rules.~~ All game lands are open to public fishing ~~except~~ except: ~~restocked ponds when posted against fishing, Hunting Creek Swamp Waterfowl Refuge, Grogan Creek, in Transylvania County, and in the case of private ponds where fishing may be prohibited by the owners thereof. No trotline or set hook or any net, trap, gig, archery equipment, or other special fishing device of a type mentioned in 15A NCAC 10C .0404(b),(c),(d), and (f) may be used in any impounded waters located entirely on game lands. Archery equipment may be used to take nongame fishes in impounded waters located entirely on game lands with the exception of those waters mentioned in 15A NCAC 10C .0404(a). Blue crabs taken by hook and line (other than set-hooks) in designated waterfowl impoundments located on game lands shall have a minimum carapace width of five inches (point to point) and the daily possession limit is 50 per person and 100 per vessel.~~

(1) restocked ponds when posted against fishing;

(2) Hunting Creek Swamp Waterfowl Refuge;

(3) Grogan Creek, John Rock Branch, and Cedar Rock Creek tributaries to the Davidson River at Bobby N. Setzer State Fish Hatchery in Transylvania County; and

(4) private ponds where fishing is prohibited by the owners.

(b) No trotline, set-hook, net, trap, gig, or other special fishing device mentioned in 15A NCAC 10C .0404(b),(c),(d), and (f) may be used in any impounded waters located entirely on game lands.

(c) Archery equipment may be used to take nongame fishes in impounded waters located entirely on game lands except for those waters mentioned in 15A NCAC 10C .0404(a).

~~(b)~~(d) ~~Designated Public Mountain Trout Waters~~ All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except as noted:

~~(1) Location. All waters located on the game lands listed in this Subparagraph are designated public mountain trout waters except as noted:~~

~~(A) Cold Mountain Game Land in Haywood County;~~

~~(B) DuPont State Forest Game Lands in Henderson and Transylvania counties, except Little River from 100 yards downstream of Hooker Falls downstream to the DuPont State Forest boundary, Lake Imaging, Lake Dense, Lake Alfred, Lake Julia, and Fawn Lake;~~

~~(C) Green River Game Land in Henderson and Polk counties, except Green River downstream of the natural gas pipeline crossing;~~

~~(D) Headwaters Game Land in Transylvania County;~~

~~(E) Nantahala National Forest Game Lands in Cherokee, Clay, Graham, Jackson, Macon, Swain, and Transylvania counties, except Cheoah River downstream of Santeetlah Reservoir and Cherokee Lake;~~

~~(F) Pisgah National Forest Game Lands in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Yancey counties, except Grogan Creek,North Fork Catawba River downstream of the mouth of Armstrong Creek, Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Mill Ridge Pond, Nolichucky River, Pigeon River downstream of Waterville Reservoir to the Tennessee state line, and Spring Creek below US Forest Service road 223;~~

~~(G) Pond Mountain Game Land in Ashe County;~~

~~(H) Rendezvous Mountain State Forest Game Land in Wilkes County;~~

~~(I) South Mountains Game Land in Cleveland and Rutherford counties;~~
~~(J) Three Top Mountain Game Land in Ashe County;~~
~~(K) Thurmond Chatham Game Land in Wilkes County;~~
~~(L) Toxaway Game Land in Transylvania County; and~~
~~(M) William H. Silvers Game Land in Haywood County.~~

(1) Cold Mountain Game Land in Haywood County;
(2) DuPont State Forest Game Lands in Henderson and Transylvania counties, except Little River from 100 yards downstream of Hooker Falls downstream to the DuPont State Forest boundary, Lake Imaging, Lake Dense, Lake Alfred, Lake Julia, and Fawn Lake;
(3) Green River Game Land in Henderson and Polk counties, except Green River downstream of the natural gas pipeline crossing;
(4) Headwaters Game Land in Transylvania County;
(5) Nantahala National Forest Game Lands in Cherokee, Clay, Graham, Jackson, Macon, Swain, and Transylvania counties, except Cheoah River downstream of Santeetlah Reservoir and Cherokee Lake;
(6) Pisgah National Forest Game Lands in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga, and Yancey counties, except Grogan Creek, Creek, Cedar Rock Creek tributary to the Davidson River at Bobby N. Setzer State Fish Hatchery, John Rock Branch, North Fork Catawba River downstream of the mouth of Armstrong Creek, Big Laurel Creek downstream from the US 25-70 bridge to the French Broad River, Mill Ridge Pond, Nolichucky River, Pigeon River downstream of Waterville Reservoir to the Tennessee state line, and Spring Creek below US Forest Service road 223;
(7) Pond Mountain Game Land in Ashe County;
(8) Little Fork State Forest Game Land in Wilkes County;
(9) South Mountains Game Land in Cleveland and Rutherford counties;
(10) Three Top Mountain Game Land in Ashe County;
(11) Thurmond Chatham Game Land in Wilkes County;
(12) Toxaway Game Land in Transylvania County; and
(13) William H. Silvers Game Land in Haywood County.

~~(2) All designated public mountain trout waters located on the game lands listed in Subparagraph (b)(1) of this Rule are Wild Trout Waters unless classified otherwise. [See 15A NCAC 10C .0205(d)]~~

(e) All designated public mountain trout waters located on the game lands listed in Paragraph (e) of this Rule are Wild Trout Waters unless classified otherwise in 15A NCAC 10C .0205(d).

~~(c) Ponds. In all game lands ponds, it is unlawful to take channel, white, or blue catfish (forked tail catfish) by means other than hook and line and the daily creel limit for forked tail catfish is six fish in aggregate.~~

Authority G.S. 113-134; 113-264; 113-272; 113-292; 113-305.

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

(a) For purposes of this Rule, the following definitions apply:
(1) "Other materials" includes: all metals, minerals, rocks, soil, organic debris, buildings, fences, ~~historic artifacts,~~ archeological resources as defined in G.S. 70-12, and water.
(2) "Commission lands" includes all State-owned game lands, hatcheries, depots, refuges, boating access areas and public fishing access areas, or parts thereof, allocated to the Wildlife Resources Commission.
(3) "Written permission" includes permits, sales agreements, agricultural agreements, and letters written by authorized Commission personnel. Written permissions shall specify the type of activity allowed, the Commission land(s) where the activity may ~~occur~~ occur, and the persons ~~authorized.~~ authorized to partake in the activity. Written permission must be carried on their person at all times. This requirement extends to any individual operating in conjunction with another's written permission.

(b) On Commission lands:
(1) No wildlife resources, fungi, invertebrates, eggs, nests, animal parts, plants, plant materials, or other materials shall be possessed on or removed from Commission lands except:
(A) as allowed in this Rule;
(B) bullfrogs, as specified in 15A NCAC 10B .0226; or
(C) if written permission has been granted by the Wildlife Resources Commission.
This restriction applies to both dead and living wildlife resources, fungi, invertebrates, eggs, animal parts, ~~plants~~ plants, and plant materials.
(2) All game, fur-bearing animals, wildlife resources, fisheries resources, and nongame animals or birds, ~~for which the Commission has established an open season,~~ legally taken under a valid hunting, trapping, fishing, falconry, or other collection license that entitles the licensee to access and use Wildlife Resources Commission Property may be possessed on and removed from Commission lands.

(3) Berries, fruit, nuts, mushrooms, ramps and other plants or plant ~~products~~ materials suitable for human consumption may be possessed on and removed from Commission lands without written permission for personal consumption only, except any fungi, plant or part thereof on a State or federal protected list shall not be possessed on or removed from Commission lands without written permission. All other fungi, plants and plant ~~products~~ materials which are not suitable for human consumption may not be possessed on or removed from Commission lands except with written permission. Crops or products thereof planted for the benefit of wildlife may not be removed without written permission.

(4) Insects, worms, or other invertebrates collected as fish bait may be possessed on and removed from Commission lands without written permission for personal use only, except any species on a State or federal protected list may not be collected and may not be removed from Commission lands. Sale of these resources is prohibited.

(5) Minimal amounts of animal parts, plant parts not removed from live plants, and other materials may be collected by hand and removed from Commission lands without written permission, except in violation of rules, general ~~statutes~~ statutes, or federal law. Collection of animal parts, and plant parts not removed from live plants ~~plants, and other materials~~ for commercial use or sale is prohibited. For purposes of this Subparagraph, "minimal amounts," are quantities that fit within a cubic foot of space, except for firewood to be used at ~~designated~~ posted ~~game land campgrounds.~~ camping areas. Minimal amounts of firewood are quantities sufficient to build and maintain a fire for the duration of the game land user's stay at the campground.

(6) Litter and road kill animals may be removed without written permission, except in violation of 15A NCAC 10B .0106.

(7) A collection license as described in 15A NCAC 10B .0119 does not qualify as written permission to collect or remove any wildlife resources from Commission lands. Written permission must be specific to the Commission land.

(c) On all other lands enrolled in the game land ~~program;~~ program:

(1) All game, fur-bearing animals, fisheries resources, and nongame animals or birds ~~for which the Commission has established an open season,~~ legally taken under a valid hunting, trapping, fishing, ~~or falconry~~ falconry, or collection license may be possessed on and removed from game lands.

(2) Possession and removal of all other wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, and plant materials ~~materials, or other materials~~ is subject to the rules of the Commission and is at the discretion of the landowner, except where the landowner has ceded authority to the Commission. When the landowner has ceded authority to the Commission, the permissions and restrictions in Paragraph (b) of this Rule apply.

~~(d) Any individual who has written permission, or a hunting, trapping, fishing or falconry license required in order to possess or remove wildlife resources, fungi, invertebrates, eggs, nests, animals parts, plants, plant materials, or other materials from Commission lands and all other lands enrolled in the game land program shall have that written permission or license on his person. This requirement extends to any individual operating in conjunction with another's written permission.~~

(d) Except as referenced in Subparagraph (b)(5) of this Rule, other materials may be possessed or removed from Commission lands and all other lands enrolled in the game land program with written permission from the Commission, except for archeological resources. To possess or remove archeological resources from Commission land or other lands enrolled in the game land program, an individual shall obtain and have on his or her person, written permission from the Commission and a permit issued by the Department of Natural and Cultural Resources as specified in G.S. 70-12.

Authority G.S. 113-134; 113-264; 113-291; 113-291.2; 113-305; 113-333.

SECTION .0200 - USE OF GAME LANDS

15A NCAC 10D .0211 BUTNER-FALLS OF NEUSE GAME LAND IN DURHAM, GRANVILLE, AND WAKE COUNTIES

Butner-Falls of Neuse game land is a Six Days per Week Area, in which the following applies:

(1) Antlered or antlerless deer ~~Deer of either sex~~ may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.

(2) Waterfowl shall be taken only on:

~~(A)~~(a) the opening and closing days of the applicable waterfowl seasons;

~~(B)~~(b) Thanksgiving, Christmas, New Year's, and Martin Luther King, Jr. Days; and

~~(C)~~(c) Tuesdays, Thursdays, and Saturdays of the applicable waterfowl seasons.

On the posted waterfowl impoundments a special permit is required for all waterfowl hunting after November 1.

(3) Horseback riding is prohibited.

(4) Target shooting is prohibited.

(5) Wild turkey hunting is by permit only, except on those areas posted as an archery zone.

(6) The use of dogs for hunting deer is prohibited on that portion west of NC 50 and south of Falls Lake.

(7) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals. On designated bicycle riding areas, the use of bicycles is allowed from May 15 through August 31, and on Sundays only from September 1 through May 14.

(8) Camping ~~and the presence of campers and tents in designated Hunter Camping Areas are limited~~ is restricted to September 1 through the last day of February and March 31 through May 14.

(9) Camping is allowed at any time in the designated Mountains-to-Sea Trail Camping Area and shall not exceed a maximum stay of two consecutive nights. Campfires are prohibited in this camping area.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0215 R. WAYNE BAILEY-CASWELL GAME LAND IN CASWELL COUNTY

R. Wayne Bailey-Caswell is a Three Days per Week Area, in which the following applies:

(1) Antlered or antlerless deer ~~Deer of either sex~~ may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Wednesday thereafter.

(2) Horseback riding, including all equine species, is allowed seven days per week from May 16 through August 31, and on Sundays only, September 1 through May 15. Horseback riding is allowed only on roads opened to vehicular traffic and on those gated roads and trails that are posted for equestrian use. People age 16 or older horseback riding on this game land shall possess a Game Lands license as required by G.S. 270.3(b)(3).

(3) The area encompassed by the following roads is permit-only for all quail and woodcock hunting and all bird dog training: From Yanceyville south on NC 62 to the intersection of SR 1746, west on SR 1746 to the intersection of SR 1156, south on SR 1156 to the intersection of SR 1783, east on SR 1783 to the intersection of NC 62, north on NC 62 to the intersection of SR 1736, east on SR1736 to the intersection of SR 1730, east on SR 1730 to NC 86, north on NC 86 to NC 62.

(4) On the posted waterfowl impoundment, waterfowl hunting is by permit only after November 1.

(5) Camping ~~and the presence of campers and tents in designated Hunter Camping Areas are limited~~ is restricted to September 1 through the last day of February and March 31 through May 14.

(6) Target shooting is prohibited, except at the R. Wayne Bailey-Caswell Shooting Range.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0239 JOHNS RIVER GAME LAND IN BURKE COUNTY

Johns River game land is hunting by permit only. The following shall apply:

(1) During permitted deer hunts, antlered or antlerless ~~deer of either sex~~ may be taken by permit holders.

(2) The construction of permanent hunting blinds is prohibited.

(3) Camping ~~and the presence of campers and tents in designated Hunter Camping Areas is limited~~ is restricted to August 31 through the last day of February and March 31 through May 14.

(4) Target shooting is prohibited.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0240 JORDAN GAME LAND IN CHATHAM, DURHAM, ORANGE, AND WAKE COUNTIES

Jordan game land is a Six Days per Week Area, in which the following applies:

(1) Antlered or antlerless deer may be taken on all the open days of the applicable Deer With Visible Antlers Season.

(2) Waterfowl may be taken only on:

(a) Mondays, Wednesdays, and Saturdays of the applicable waterfowl seasons;

(b) Thanksgiving, Christmas, and New Year's Days; and

(c) the opening and closing days of the applicable waterfowl seasons.

(3) Horseback riding, including all equine species, is allowed only on those areas posted as American Tobacco Trail and other areas posted for equestrian use. Unless otherwise posted, horseback riding is permitted on posted portions of the American Tobacco Trail anytime the trail is open for use. On all other trails posted for equestrian use, horseback riding is allowed seven days per week from May 16 through August 31, and on Sundays only from September 1 through May15. People age 16 or older shall obtain a game land license prior to engaging in horseback riding on any area other than the American Tobacco Trail.

(4) Target shooting is prohibited.

(5) Wild turkey hunting is by permit only, except on those areas posted as an Archery Zone.

(6) The use of bicycles is restricted to designated areas, except that this restriction does not apply to hunters engaged in the act of hunting during the open days of the applicable seasons for game birds and game animals.

(7) Camping is restricted to September 1 through the last day of February and March 31 through May 14. The maximum period of consecutive overnight camping at any posted camping area is 14 days within any 30-day period.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0258 PEE DEE RIVER GAME LAND IN ANSON, MONTGOMERY, RICHMOND, AND STANLY COUNTIES

Pee Dee River game land is a Seven Days per Week Area, in which the following applies:

(1) Antlered or antlerless deer ~~Deer of either sex~~ may be taken the first open day of the applicable Deer With Visible Antlers Season through the second Friday thereafter.

~~(2) Use of centerfire rifles is prohibited in that portion in Anson and Richmond counties North of US-74.~~

~~(3)~~(2) Target shooting is prohibited.

~~(4)~~(3) Horseback riding is allowed seven days per week from May 16 through August 31, and on Sundays only September 1 through May 15 only on roads opened to vehicular traffic and gated roads and trails posted for equestrian use.

~~(5)~~(4) Pursuing or chasing deer or bear with dogs for the purposes of training or hunting shall be prohibited on that portion south of US-74.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0269 ROCKY RUN GAME LAND IN ONSLOW COUNTY

(a) Rocky Run game land is hunting by permit only.

(b) Target shooting is prohibited.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

15A NCAC 10D .0271 SANDHILLS GAME LAND IN HOKE, MOORE, RICHMOND, AND SCOTLAND COUNTIES

Sandhills game land is a Three Days per Week Area, in which the following applies:

(1) Hunting is prohibited on the J. Robert Gordon Field Trial Grounds from ~~October 22~~ the Wednesday on or nearest October 18 through March 31 except as follows:

(a) Antlered or antlerless deer ~~Deer of either sex~~ may be taken with archery equipment on all the open days of the archery season through the fourth Friday before Thanksgiving Day; with blackpowder firearms and archery equipment all the open days of the blackpowder firearms season through the third Wednesday before Thanksgiving Day; and only deer with visible antlers may be taken with all legal weapons from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;

(b) dove may be taken all open days from the opening day of the dove season through the third Saturday thereafter;

(c) gray and fox squirrel may be taken all the open days from the second Saturday before Thanksgiving Day through the Saturday following Thanksgiving Day;

(d) rabbit may be taken all open days from the second Saturday preceding Thanksgiving Day through the Saturday following Thanksgiving Day;

(e) waterfowl may be taken on open days during any waterfowl season;

(f) wild animals and wild birds may be taken as part of a Disabled Sportsmen Program Permit Hunt; and

(g) raccoon and opossum may be taken on open days from sunrise Monday on or nearest October 15 through the last day of February.

(2) The Deer With Visible Antlers season is the open hunting days from the second Saturday before Thanksgiving Day through the third Saturday after Thanksgiving Day except on the J. Robert Gordon Field Trial Grounds.

(3) The archery season is all open days from the Saturday on or nearest to Sept. 10 to the fourth Friday before Thanksgiving Day and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Antlered or antlerless deer ~~Deer of either sex~~ may be taken with archery equipment on all open hunting days during the archery season, by permit during the Deer with Visible antlers season, and the blackpowder firearms season as stated in this Subparagraph. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.

(4) Blackpowder firearms season is all the open days from the fourth Saturday preceding Thanksgiving Day through the Wednesday of

the second week thereafter and, except on the J. Robert Gordon Field Trial Grounds, the third Monday after Thanksgiving Day through January 1. Antlered or antlerless deer ~~Deer of either sex~~ may be taken with blackpowder firearms on all open hunting days during the blackpowder firearms season and by permit during the Deer With Visible Antlers season. Only deer with visible antlers may be taken from the third Monday after Thanksgiving Day through January 1.

(5) Either-sex deer hunting during the Deer With Visible Antlers Season is by permit only.

(6) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons.

(7) Wild turkey hunting is by permit only.

(8) Horseback riding on field trial grounds from ~~October 22~~ the Wednesday on or nearest October 18 through March 31 is prohibited unless participating in authorized field trials. Horseback riding is allowed on the remainder of the Sandhills Game Land seven days per week on roads that are open to vehicular traffic and gated roads and trails posted for equestrian use.

(9) Camping ~~and the presence of campers and tents in designated Hunter Camping Areas are limited~~ is restricted to September 1 through the last day of February and March 31 through May 14.

(10) Target shooting is prohibited, except at the John F. Lentz Hunter Education Complex.

(11) Swimming is prohibited in the lakes.

Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-296; 113-305.

SUBCHAPTER 10H – REGULATED ACTIVITIES

SECTION .1500 – WILDLIFE AND ALLIGATOR CONTROL AGENTS

15A NCAC 10H .1506 ALLIGATOR CONTROL AGENT CERTIFICATION ELIGIBILITY AND REQUIREMENTS

(a) The following definitions shall apply in this Section:

(1) "Alligator control agent" or "ACA" means a licensed Wildlife Control Agent that holds a current and valid alligator control agent certification issued by the Commission.

(2) "Alligator control agent certification" or "ACA certification" means a certification issued by the Commission that authorizes a Wildlife Control Agent to engage in alligator damage control or alligator removal activities by means of a Commission-issued depredation permit.

(b) It shall be unlawful to engage in alligator damage control or alligator removal activities for compensation without first obtaining an alligator control agent (ACA) certification from the Commission.

(c) Only individuals with a valid WCA license shall be eligible for ACA certification.

(d) WCAs meeting the following requirements shall qualify for ACA certification:

(1) completion of a Commission-approved ACA training course that reviews the following:

(A) alligator rules;

(B) procedures for alligator data collection activities; and

(C) safe, humane alligator capture, handling, and transporting techniques.

(2) a passing score on the ACA written examination as specified in Paragraph ~~(d)~~(f) of this Rule.

(3) demonstration to the Commission of necessary equipment to safely and humanely capture and relocate alligators, including ropes, cables, snares, poles, passive integrated transponder (PIT) tag reader, and an alligator transport device.

(e) WCAs may register for a Commission-approved ACA training course at www.ncwildlife.org/wca

(f) WCAs scoring at least an 80 percent on the ACA examination provided by the Commission shall be deemed to have received a passing score. WCAs failing to obtain a passing score on the examination shall receive one opportunity to re-take the examination and receive a passing score without being required to retake the ACA training course.

(g) An ACA certification shall not be transferable between individuals.

(h) All equipment used in captive facilitates or on captive alligators shall not be used for ACA operations.

Authority G.S. 113-134; 113-273; 113-274.

SUBCHAPTER 10J - WILDLIFE CONSERVATION AREA REGULATIONS

15A NCAC 10J .0101 DESIGNATION OF WILDLIFE CONSERVATION AREAS

~~For the purposes of these regulations, wildlife conservation areas are defined as any lands owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission primarily for the conservation of nongame wildlife resources including those areas designated and posted as Wildlife Conservation Areas and those designated and posted as Colonial Waterbird Nesting Areas.~~

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

(1) "Wildlife Conservation Area" means any lands owned, leased, controlled, or cooperatively managed by the Wildlife Resources Commission primarily for the conservation of nongame wildlife resources including those areas designated and posted as Wildlife Conservation Areas and those designated and posted as Waterbird Nesting Areas.

(2) "Other materials" means: all metals, minerals, rocks, soil, organic debris, buildings, fences, archeological resources as defined in G.S. 70-12, and water.

(b) The Wildlife Resources Commission has identified and posted the following areas on Wildlife Conservation Areas that have additional restrictions on entry or usage:

(1) On portions of Wildlife Conservation Areas posted as "Safety Zones" hunting is prohibited. No person shall hunt or discharge a firearm or archery equipment as defined in 15A NCAC 10B .0116 within, into, or across a posted safety zone on any Wildlife Conservation Area. Falconry is exempt from this provision.

(2) Portions of Wildlife Conservation Areas posted as "Restricted Zones" are closed to all use by the public, and entry upon such an area for any purpose is prohibited without first having obtained written approval of such entry or use from the Wildlife Resources Commission. Entry shall be authorized only when such entry will not compromise the primary purpose for establishing the Restricted Zone and the person or persons requesting entry are able to demonstrate a valid need or such person is a contractor or agent of the Commission conducting official business. Valid needs may include access to private property, scientific investigations, surveys, or other activities in the public interest.

Authority G.S. 113-134; 113-264; 113-291.2; 113-305; 113-306.

15A NCAC 10J .0102 GENERAL REGULATIONS REGARDING USE OF CONSERVATION AREAS

(a) ~~Trespass.~~ Entry on areas posted as Wildlife Conservation Areas for purposes other than wildlife observation, hunting, trapping or fishing shall be as authorized by the landowner. ~~On those areas designated and posted as Colonial Waterbird Nesting Areas, entry is prohibited during the period of April 1 through August 31 of each year, except by written permission of the landowner. Entry into Colonial Waterbird Nesting Areas during the period of September 1 through March 31 is as authorized by the landowner.~~

(b) Entry is prohibited above the high tide waterline from March 1 through September 15 of each year on areas designated and posted as Waterbird Nesting Areas.

~~(b)~~(c) ~~Littering.~~ No person shall deposit any litter, trash, garbage, or other refuse at any place on any ~~wildlife conservation area~~ Wildlife Conservation Area. ~~except in receptacles provided for disposal of such refuse.~~ No garbage dumps or sanitary landfills shall be established on any ~~wildlife conservation area~~ Wildlife Conservation Area by any person, firm, corporation, county or municipality, except as permitted by the landowner.

~~(c)~~(d) ~~Use and possession of weapons.~~ No person shall discharge:

(1) any weapon from a vehicle;

(2) any weapon within 200 yards of any building or designated camping areas;

(3) any weapons within, into, or across a posted "safety zone;" or

(4) ~~a firearm~~ any weapons within, into, or across a posted "restricted zone."

No person shall hunt with or have in possession any shotgun shell containing lead or toxic shot while hunting waterfowl on any area designated as a ~~wildlife conservation area,~~ Wildlife Conservation Area, except shotgun shells containing lead buckshot may be used while deer hunting. ~~Every individual carrying a concealed handgun must adhere to the requirements set forth in G.S. 14-415.11, even if the state issuing the concealed handgun permit is not North Carolina.~~

~~(d)~~(e) ~~License Requirements:~~ All applicable hunting, trapping, and fishing license requirements shall apply on Wildlife Conservation Areas.

~~(1) Hunting and Trapping:~~

~~(A) Requirement. Except as provided in Part (d)(1)(B) of this Rule, any person entering upon any designated wildlife conservation area for the purpose of hunting or trapping shall have in his possession a game lands use license in addition to the appropriate hunting or trapping licenses.~~

~~(B) Exception. A person under 16 years of age may hunt on designated wildlife conservation areas on the license of his parent or legal guardian.~~

~~(2) Trout Fishing. Any person 16 years of age or over, including an individual fishing with natural bait in the county of his residence, entering a designated wildlife conservation area for the purpose of fishing in designated public mountain trout waters located thereon must have in his possession a regular fishing license and special trout license. The resident and nonresident sportsman's licenses and short-term comprehensive fishing licenses include trout fishing privileges on designated wildlife conservation areas.~~

~~(e)~~(f) ~~Training Dogs. Dogs shall not be trained on designated wildlife conservation areas during open hunting seasons for game animals or game birds thereon.~~ Dogs ~~are~~ shall not ~~allowed to~~ enter any ~~wildlife conservation area~~ Wildlife Conservation Area designated and posted as a ~~colonial waterbird nesting area~~ Waterbird Nesting Area ~~during the period of April~~ from March 1 through ~~August 31.~~ September 15 above the high tide waterline.

~~(f)~~(g) ~~Trapping.~~ Subject to the restrictions contained in 15A NCAC 10B ~~.0110,~~ .0302, ~~and~~ .0303, and .0306 trapping of fur-bearing animals is permitted on any area designated and posted as a ~~wildlife conservation area~~ Wildlife Conservation Area during the applicable open seasons, except that trapping is prohibited:

(1) on the Nona Pitt Hinson Cohen Wildlife Conservation Area in Richmond County; and

(2) in posted "safety zones" located on any Wildlife Conservation Area.

(h) The following is prohibited on areas designated as Wildlife Conservation Areas or on their waters:

(1) driving a motorized vehicle on any area posted against vehicular traffic;
(2) camping, unless designated by the landowner. On the coastal islands designated Wildlife Conservation Areas, camping is allowed except on those areas designated and posted as Waterbird Nesting Areas;
(3) swimming, except for the waters adjacent to coastal island Wildlife Conservation Areas;
(4) operating a vessel powered by internal combustion engine; and
(5) operating motorized land vehicles not licensed for highway use. Persons who have obtained a permit issued pursuant to G.S. 113-297 are exempt from this Rule but shall comply with permit conditions;
(6) open fires.

~~(g) Vehicular Traffic. No person shall drive a motorized vehicle on a road, trail or area posted against vehicular traffic or other than on roads maintained for vehicular use on any designated wildlife conservation area.~~
~~(h) Camping. No person shall camp on any designated wildlife conservation area except on an area designated by the landowner for camping. On the coastal islands designated wildlife conservation areas, camping is allowed except on those areas designated and posted as Colonial Waterbird Nesting Areas.~~
~~(i) Swimming. No person shall swim in the waters located on designated wildlife conservation areas, except that a person may swim in waters adjacent to coastal island wildlife conservation areas.~~
~~(j) Motorboats. No person shall operate any vessel powered by an internal combustion engine on the waters located on designated wildlife conservation areas.~~
~~(k) Non Highway Licensed Vehicles. It is unlawful to operate motorized land vehicles not licensed for highway use on Wildlife Conservation Areas. Persons who have obtained a permit issued pursuant to G.S. 113 297 are exempt from this Rule but shall comply with permit conditions.~~
~~(l) It is unlawful to possess or consume any type of alcoholic beverage on public use areas of the Nona Pitt Hinson Cohen Wildlife Conservation Area.~~
~~(m)~~(i) ~~It is unlawful to release animals or birds; domesticated animals, except hunting dogs and raptors where otherwise permitted for hunting or training purposes; and feral animals on conservation areas without prior written authorization of the Wildlife Resources Commission.~~ Releasing animals or birds, domesticated animals, and feral animals on Wildlife Conservation Areas is prohibited except for:

(1) hunting dogs and raptors when permitted for hunting and training purposes; or
(2) with prior written authorization of the Wildlife Resources Commission.

~~(n)~~(j) ~~Possession and removal.~~ No living or dead nongame wildlife, fungi, invertebrates, eggs, nests, animal parts, plants, plant materials, or other materials may be possessed on or removed from ~~conservation~~ Wildlife Conservation ~~areas~~ Areas without written permission from the ~~Commission.~~ Commission as specified in 15A NCAC 10J .0101. ~~For purposes of this Rule, "other materials" includes all metals, minerals, rocks, soil, organic debris, buildings, fences, historic artifacts and water.~~ Minimal amounts of animal parts, plant parts not removed from live plants, and other materials may be collected by hand and removed from Commission lands without written permission, except in violation of rules, general statutes, or federal law. Collection of animal parts, and plant parts not removed from live plants for commercial use or sale is prohibited. For purposes of this Subparagraph, "minimal amounts," are quantities that fit within a cubic foot of space, except for firewood to be used at posted camping areas. Minimal amounts of firewood are quantities sufficient to build and maintain a fire for the duration of the Wildlife Conservation Area user's stay at the campground.

Authority G.S. 113-134; 113-264; 113-270.3; 113-291.2; 113-291.5; 113-305; 113-306; 113-296; 113-297.

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***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Wildlife Resources Commission intends to amend the rules cited as 15A NCAC 10C .0314 and .0401.*

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

Proposed Effective Date: *August 1, 2023*

Public Hearing:
Date: *January 10, 2023*
Time: *7:00 p.m.*
Location: *Craven County Courthouse (District Courtroom #4), 302 Broad St., New Bern, NC 28560*

Date: *January 12, 2023*
Time: *7:00 p.m.*
Location: *Old Asheboro Courthouse, 725 McDowell Road Asheboro, NC 27205*

Date: *January 17, 2023*
Time: *7:00 p.m.*
Location: *McDowell Technical Community College 54 College Drive Marion, NC 28752*

Date: *January 19, 2023*
Time: *7:00 p.m.*
Location: *Register Online: https://ncwildlife-org.zoomgov.com/webinar/register/WN_S8FEIxE8TFaqY4FkC0bmYg Webinar ID: 160 229 5222 Phone: 877-853-5247*

Reason for Proposed Action:
***10C .0314 and 10C .0401** are subject to legislative review. Amendments to the rules based on the temporary versions and the versions subject to review are both included in the annual cycle filings, as the agency is unsure at this time which version will have to be amended.*

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

Comment period ends: *January 30, 2023*

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 984-236-1850.

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 .0314 STRIPED BASS

(a) The daily creel limit for striped bass and its hybrids is four fish in the aggregate, except in waters identified in Paragraphs (d) and (g) through ~~(l)~~(m) of this Rule.

(b) The minimum size limit for these fish is 20 inches, except in waters identified in Paragraphs (d) through ~~(l)~~(m) of this Rule.

(c) There is no closed season, except for waters identified in Paragraphs (i) through (m) of this Rule.

(d) In the Dan River upstream from its confluence with Bannister River to the dam at Union Street in Danville, VA and in John H. Kerr Reservoir, the daily creel limit on striped bass and its hybrids is two in the aggregate and the minimum size limit is 20 inches from October 1 through May 31. From June 1 through September 30, the daily creel limit on striped bass and its hybrids is four in the aggregate with no minimum size limit.

(e) In Lake Gaston and Roanoke Rapids Reservoir, the minimum size limit for striped bass and its hybrids is 20 inches from October 1 through May 31. There is no minimum size limit for these fish from June 1 through September 30.

(f) In Hyco Lake, Moss Lake, Mountain Island Reservoir, Oak Hollow Lake, Lake Thom-A-Lex, Lake Townsend, and Salem Lake the minimum size limit for striped bass and its hybrids is 16 inches.

(g) In Lake Chatuge in Clay County, the daily creel limit is 15 in the aggregate. There is no minimum size limit, but only two may be greater than 22 inches.

(h) In Lake Mattamuskeet, and in the Pee Dee River and its tributaries downstream from the Blewett Falls Dam to the South Carolina state line, the daily creel limit for striped bass and its hybrids is three fish in the aggregate, and the minimum size limit is 18 inches.

(i) In the inland fishing waters of Neuse, Pungo, and Tar Pamlico rivers and their tributaries extending upstream to the first impoundment of the main course on the river or its tributaries, and in all other inland fishing waters east of Interstate 95 not specified in Paragraphs (h) and (j) through (l) of this Rule, the daily creel limit for striped bass and its hybrids is two fish in the aggregate. The minimum size limit is 26 inches. In these waters, the season for taking and possessing striped bass is closed from May 1 through September 30.

(j) ~~In the inland fishing waters of the Cape Fear River and its tributaries downstream of Buckhorn Dam and in the~~ The ponds associated with Martin Marietta Park in Craven County, the season for taking and possessing striped bass is closed year-round.

(k) In the inland fishing waters of the Cape Fear River from Lock and Dam 1 upstream to Buckhorn Dam and its tributaries, the daily creel limit for striped bass and its hybrids is two fish. The minimum size limit is 18 inches. In these waters, the season for taking and possessing Striped Bass is closed from May 1 through the last day in February.

~~(k)~~(l) In the inland and joint fishing waters of the Roanoke River Striped Bass Management Area, as established in 15A NCAC 03R .0201 and identified in 15A NCAC 10C .0110 which includes the Roanoke, Cashie, Middle, and Eastmost rivers and their tributaries, the open season for taking and possessing striped bass and its hybrids is March 1 through April 30 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to Roanoke Rapids Lake dam. During the open season, the daily creel limit for striped bass and its hybrids is one fish in the aggregate, and the minimum size limit is 18 inches. No fish ~~between~~ over 22 inches ~~and 27 inches~~ in length shall be possessed in the daily creel limit.

~~(l)~~(m) In designated inland and joint fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), the striped bass fishing season, size limits, and creel limits are the same as those established by rules or proclamations of the Marine Fisheries Commission in adjacent coastal fishing waters.

~~(m)~~(n) In accordance with G.S. 113-292, the Executive Director may, by proclamation, suspend or extend the hook-and-line season for striped bass in the inland and joint waters of coastal rivers and their tributaries. It is unlawful to violate the provisions of any proclamation issued under this authority.

Authority G.S. 113-134; 113-292; 113-304; 113-305.

SECTION .0400 – JURISDICTION OF AGENCIES: CLASSIFICATION OF WATERS

15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES

(a) Except as permitted by the rules in this Section, no person shall take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line, grabbling, or special device with a special device fishing license, or inland fishing license.

(b) Nongame fishes may be taken from inland fishing waters at any time without restriction as to size limits or creel limits, except as specified in this Section.

(c) Special devices used with a special device fishing license shall only be used in those counties and waters with open season designated in 15A NCAC 10C .0407.

(d) Archery equipment used with either a hunting license or inland fishing license may be used to take nongame fishes year-round in all inland fishing waters, except:

(1) in the Pee Dee River downstream of Blewett Falls Dam to the South Carolina state line and in all tributaries, where only catfish can be taken;

(2) in impounded waters located on the Sandhills Game Land; and

(3) in public mountain trout waters.

(e) Set hooks, jug hooks, and trotlines may be used to take nongame fishes as designated in 15A NCAC 10C .0206.

(f) The season for taking nongame fishes by hook and line in designated public mountain trout waters is the same as the trout fishing season. Trout seasons are designated in 15A NCAC 10C .0316.

(g) Nongame fishes taken by hook and line, grabbling, or by special device with a special device fishing license may be sold unless otherwise specified in this Section.

(h) In the inland waters of the Roanoke River upstream of U.S. 258 bridge, only a single barbless circle hook may be used when fishing with live or natural bait from April 1 to June 30. With all other tackle, only a single barbless hook may be used. "Circle hook" as used in this Rule means a hook with the point turned perpendicularly back to the shank. "Barbless" as used in this Rule requires that a hook does not have a barb or the barb is bent down.

Authority G.S. 113-134; 113-272; 113-292.

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TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

***Notice** is hereby given in accordance with G.S. 150B-21.3A(c)(2)g. that the Commission for Public Health intends to readopt with substantive changes the rules cited as 15A NCAC 18A .2801-.2804, .2806-.2810, .2812, .2814-.2827, and .2829-.2836.*

Link to agency website pursuant to G.S. 150B-19.1(c): *https://cph.dph.ncdhhs.gov/*

Proposed Effective Date: *April 1, 2023*

Public Hearing:
Date: *January 11, 2023*
Time: *2:00 p.m.*
Location: *This public hearing will be held by teleconference at (919) 715-0769 (no access code required).*

Reason for Proposed Action: *Pursuant to G.S. 150B-21.3A, periodic review and expiration of existing rules, the Commission for Public Health is proposing to readopt rules 15A NCAC 18A .2801-.2804, .2806-.2810, .2812, .2814-.2827, and .2829-.2836, regarding the administration and enforcement of sanitation standards in child care centers, with updates to clarify existing language and align with current practices.*

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

Comment period ends: *January 30, 2023*

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 984-236-1850.

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 18 - ENVIRONMENTAL HEALTH

SUBCHAPTER 18A – SANITATION

SECTION .2800 - SANITATION OF CHILD CARE CENTERS

15A NCAC 18A .2801 DEFINITIONS

The following definitions shall apply ~~in regards to child care centers~~ throughout this Section:

(1) "Adequate" means ~~determined by the Department~~ to be of ~~sufficient~~ the size, volume, or technical ~~specifications,~~ specifications necessary to effectively accommodate and support the planned, current, or projected

workloads for ~~a specified operational area.~~ the technology or constructed space.

(2) ~~"Approved" means determined by the Department to be in compliance with this Section.~~ "Approved Disinfectant" means a chlorine solution containing 500 to 800 parts per million (ppm) of chlorine or a disinfectant as defined at 40 C.F.R. 158.2203 that is registered with the United States Environmental Protection Agency (EPA) in accordance with 40 C.F.R. 152. When an approved disinfectant is used in a child care center, the manufacturer's Safety Data Sheets for the disinfectant product shall kept on file at the child care center and the instructions for use of the disinfectant product shall be followed. When a chlorine solution is prepared by a child care center employee for use as an approved disinfectant, then the solution shall be prepared for use within 24 hours and a testing method shall be used to ensure compliance with the prescribed chlorine concentration. To achieve the maximum germ reduction with a chlorine disinfecting solution, the surface being disinfected shall be made wet with the chlorine disinfecting solution and allowed to air dry or be dried only after the surface has been in contact with the chlorine disinfecting solution for a minimum of two minutes.

(3) "Chain or Franchise Child Care Center" means a child care center that operates under the same business name and prototype design concept, with common ownership or management, as nine or more other child care centers pursuant to a franchise agreement under the same franchisor as nine or more other child care centers. If a child care center operates in another state or states and is opening a location in North Carolina with the same business name and prototype design concept, with common ownership or management, as nine or more other child care centers pursuant to a franchise agreement under the same franchisor as nine or more other child care centers, the child care center in North Carolina shall be considered a chain or franchise child care center for the purpose of plan review as set forth at Rule .2802 of this Section.

(4) "Child Care Administrator" means as defined at G.S. 110-86(2a).

(5) "Child Care Center" means as defined at 10A NCAC 09 .0102(6).

(6) "Child Care Operator" or "Operator" means as an operator as defined at G.S. 110-86(7).

(7) "Clean" means that an object or surface has been made free of garbage, soil, dust, hair, dander, food, bodily fluids and secretions, and feces.

~~(3)~~(8) "Communicable Condition" means as defined at G.S. 130A-2(1b). ~~the state of being infected with a communicable agent but without symptoms.~~

~~(4)~~(9) "Communicable Disease" means as defined at G.S. 130A-2(1c). ~~any disease that can be transmitted from one person to another directly, by contact with excrement, other body fluids, or discharges from the body; or indirectly, via substances or inanimate objects, such as contaminated food, drinking glasses, toys or water; or via vectors, such as flies, mosquitoes, ticks, or other insects.~~

~~(5)~~(10) "Department" or ~~"DENR"~~ "DHHS" means the North Carolina Department of ~~Environment~~ Health and ~~Natural Resources.~~ Human Services or ~~The term also means~~ the Department's authorized ~~representative of the Department.~~ agent pursuant to G.S. 130A-4.

~~(6)~~(11) "Designated Emergency Medication" means ~~any~~ a medication ~~used or~~ needed to treat ~~for the immediate recovery from~~ a ~~potentially~~ life-threatening medical ~~event.~~ event that is administered in accordance with 10A NCAC 09 .0803(10) and G.S. 110-102.1A.

(12) "Detergent Solution" means a solution comprised of water and soap.

(13) "Disinfect" means a non-sporicidal process of using an approved disinfectant on inanimate surfaces to destroy or irreversibly inactivate fungi, viruses, and bacteria.

~~(7) "Disinfecting Solution" means a solution containing 500 to 800 parts per million (ppm) of chlorine. A disinfecting solution can be made by mixing a solution of one-quarter cup (2 fluid ounces) household liquid chlorine bleach with one gallon of tap water (or one tablespoon of liquid household bleach in one quart of water) and prepared fresh daily. In addition, products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.~~

~~(8) "Division of Child Development" means the child care licensing agency in the N.C. Department of Health and Human Services.~~

~~(9)~~(14) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption.

~~(10)~~(15) "Food Contact Surface" means as defined at 15A NCAC 18A .2600.

(16) "Food Preparation" means the handling of foods or utensils in the preparation of meals, including opening and closing of baby bottles,

baby food ~~jars~~ jars, and cereal boxes, as well as the opening and closing of any other food items during ~~intended for~~ the assembly of ingredients. ~~ingredients for human consumption.~~

~~(11)~~(17) "Food Service" means the distribution of ~~prepared~~ foods for consumption, including ~~those food items prepared at the child care center; received by the center from approved food establishments;~~ milk placed in a pitcher or other serving ~~container;~~ container, ice that is transported, stored and ~~dispensed;~~ dispensed, the distribution of children's bagged lunches and snacks sent from ~~home;~~ home, and the use of utensils to ~~minimize~~ prevent direct food contact.

~~(12)~~(18) "Frying" means to cook over direct heat in hot oil or fat. This includes the oil or fat that is generated by the food or added to the cooking utensil.

(19) "Garbage" means as defined at G.S. 130A-290(7).

(20) "Good Repair" means as defined at 15A NCAC 18A .2651(8). Items that are in good repair shall be free of substrate damage, deterioration, peeling surfaces, and broken or missing parts and shall operate in accordance with the manufacturer's or builder's instructions.

(21) "Hand Antiseptic" means as defined at 15A NCAC 18A .2600.

(22) "Handwash Lavatory" means a sink that is equipped with hot and cold water under pressure and is used primarily for handwashing.

(23) "Hazard" means as defined at 15A NCAC 18A .2600, except that "consumer" shall be replaced with "child."

~~(13)~~(24) "Hermetically ~~Sealed"~~ Sealed Container" means as defined at 15A NCAC 18A .2600. ~~a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its contents after processing.~~

~~(14) "Household bleach" means bleach sold in concentrations that are intended for household use, and not industrial applications. Household bleach is sold in retail stores at strengths of 5.25 percent hypochlorite (regular strength bleach) solution and 6.00 percent hypochlorite (ultra strength bleach) solution.~~

~~(15) "Lavatory" means a sink that is equipped with hot and cold water under pressure for the primary purpose of handwashing.~~

(25) "Licensing Agency" means the DHHS, Division of Child Development and Early Education.

(26) "Local Health Department" means as defined at G.S. 130A-2(5).

(27) "Milk Products" means as defined at 02 NCAC 09G .2001.

~~(16)~~(28) "Multi-Service Articles" means tableware, including flatware and hollowware that are designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used.

~~(17)~~(29) "Multi-Use Articles" means bulk food containers and utensils designed, fabricated, and intended by the manufacturer to be washed, rinsed, sanitized, and re-used. The term includes food storage containers, beverage pitchers, serving spoons and bowls, tongs, and spatulas. The term does not include multi-service articles as defined in this Rule.

(30) "Outdoor Learning Environment" means as set forth at 10A NCAC 09 .0605.

(31) "Pest" means as defined at G.S. 143-460(26a).

~~(18)~~(32) "Potable Water" means water from ~~an approved source which is suitable for drinking.~~ a potable water supply as defined at 15A NCAC 18C .0102(c)(18).

~~(19)~~(33) "Potentially Hazardous Food" means any food or ingredient, natural or synthetic, in a form capable of supporting the growth of infectious or toxigenic microorganisms, including Clostridium botulinum. This term includes raw or heat-treated food of animal origin, raw seed sprouts, and heat-treated foods of plant origin. The term does not include foods which have a pH level of 4.6 or below or a water activity value of 0.85 or less.

~~(20) "Putrescible Materials" means materials likely to rot or putrefy, such as fruit, vegetables, meats and dairy products.~~

~~(21) "Sanitary Sewage System" means a complete system of sewage collection, treatment, and disposal and includes septic tank systems, connection to a public or community sewage system, sewage reuse or recycle systems, or mechanical or biological treatment systems.~~

(34) "Sanitize" means a process of using a sanitizing solution on inanimate surfaces to destroy or irreversibly inactivate bacteria.

~~(22)~~(35) "Sanitizing Solution" means a solution containing 50 to 200 parts per million (ppm) of chlorine or a sanitizer as defined at 40 C.F.R. 158.2203 that is registered with the EPA in accordance with 40 C.F.R. 152 that is approved by the EPA for use on food contact surfaces, does not require a final rinse step, and has a testing method that can be used by child care center employees to confirm that the prescribed chemical concentrations are met. When a sanitizing solution is used in a child care center, the manufacturer's Safety Data Sheet shall be kept on file at the child care center and the instructions for use of the sanitizing solution shall be followed. When a chorine solution is used in a child care center it shall be prepared for use within 24 hours and a testing method or

kit shall be used to ensure compliance with the prescribed chlorine concentration. To achieve the maximum germ reduction with a chlorine solution, the cleaned surfaces shall be left wet with the chlorine solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. ~~chlorine. A sanitizing solution can be made by mixing a tablespoon of liquid household chlorine bleach with one gallon of water and prepared fresh daily.~~

~~(23)~~(36) "School Age" means a school-aged ~~any~~ child as defined at 10A NCAC 09 .0102(42). ~~who is at least five years old on or before October 16 of the current school year and who is attending, or has attended, a public or private grade school or kindergarten; or any child who is not five years old and will not be five years old on or before October 16 of that school year, but has been attending school during that school year in another state in accordance with the laws or rules of that state before moving to and becoming a resident of North Carolina; or any child who is at least five years old on or before April 16 of the current school year, is determined by the principal of a school to be gifted and mature enough to justify admission to the school and is enrolled no later than the end of the first month of the school year.~~

~~(24)~~(37) "Single-Service Articles" means tableware, including flatware and hollowware, carry-out utensils and other items such as bags, containers, stirrers, straws, toothpicks, and wrappers that are designed, fabricated and intended by the manufacturer for one-time use.

~~(25)~~(38) "Single-Use Articles" means bulk food containers and utensils intended by the manufacturer to be used once and discarded. The term includes formed buckets, bread wrappers, pickle barrels, and No. 10 cans. The term does not include single-service articles as defined in this Rule.

~~(26)~~(39) "Tempered Water" means water that is between ~~80°F~~ 80 and ~~110°F.~~ 110 degrees Fahrenheit.

~~(27)~~(40) ~~"Utensils"~~ "Utensil" means any kitchenware, tableware, glassware, cutlery, containers or other equipment that food or drink comes in contact with during storage, preparation or serving.

~~(28)~~(41) "Work Surfaces" means ~~the following locations in the kitchen:~~ surfaces used for food service, ~~service areas;~~ stove tops, ~~top surfaces;~~ food contact ~~preparation surfaces;~~ utensil and dishwashing ~~areas;~~ sinks, surfaces used for air ~~drying~~; drying, drain ~~boards;~~ boards, surfaces used for diaper changing, ~~and counter top surfaces. In child care rooms, work surfaces include food preparation areas, diaper changing surfaces,~~ counter top surfaces, and ~~children~~ children's work tables, ~~desks~~ desks, and easels.

Authority G.S. 110-91.

15A NCAC 18A .2802 APPROVAL OF CONSTRUCTION AND RENOVATION PLANS

(a) Construction ~~Plans~~ plans drawn to scale and specifications for a new child care ~~centers~~ center that is not a chain or franchise child care center shall be submitted by the operator or the operator's designee to the local health department that serves the county in which the child care center is located for review and approval prior to initiating construction. Plans drawn to scale and specifications for changes to building dimensions, kitchen specifications, or other modifications to existing child care centers shall also be submitted to the local health department for review and approval prior to initiating construction. Construction ~~Plans~~ plans drawn to scale and specifications for prototype ~~"franchise"~~ chain or franchise ~~"chain"~~ child care centers shall be submitted to ~~DENR,~~ DHHS, Division of ~~Environmental~~ Public Health, Environmental Health Section ~~Services Section, Children's Environmental Health Branch.~~ by mail at 5605 Six Forks Road, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632. When requested by an operator of a child care center or by the Secretary of the Department, ~~Department of Health and Human Services,~~ the local health department shall visit or inspect an existing or proposed center, within 30 days of the request, to determine compliance with this Section.

(b) ~~Review of the plans by the~~ The local health department or the DHHS, Division of Public Health, Environmental Health ~~Services Section~~ Section, as applicable, shall approve plans described in Paragraph (a) of this Rule when the plans meet ~~be based on~~ the requirements of the rules of this Section.

(c) Construction and modifications shall comply with the plans approved ~~plans.~~ pursuant to this Rule.

Authority G.S. 110-91.

15A NCAC 18A .2803 HANDWASHING

(a) Child ~~Care operators shall instruct employees that handwashing is the single most important line of defense in preventing the transmission of disease causing organisms. Employees~~ care center employees shall wash their hands ~~upon reporting for work~~ as follows when at work in a child care center:

(1) upon reporting for ~~work;~~ work at the child care center;
(2) before and after handling or preparing food;
(3) before bottle feeding ~~or serving to other children;~~ a child;
(4) before providing food service;
(5) before handling clean utensils; ~~or equipment;~~
(6) after toileting or handling of body fluids, ~~fluids (e.g.,~~ including but not limited to saliva, nasal secretions, vomitus, feces, urine, blood, secretions from sores, and pustulant ~~discharge);~~ discharge;
(7) after diaper changing;
(8) after handling soiled items ~~such as garbage, mops, cloths and clothing;~~ that are not clean;
(9) after being outdoors;
(10) after handling animals or animal cages; and
(11) after removing disposable gloves.

(b) The use of a hand ~~sanitizing products~~ antiseptic does not replace the ~~requirement~~ requirements for ~~handwashing.~~ handwashing in Paragraph (a) ~~However,~~ except ~~for diapering, food preparation, and food service, hand sanitizing products may be used~~ that an employee who is supervising a child or children outdoors may use a hand antiseptic while outdoors in lieu of handwashing, ~~handwashing while an employee is supervising children outdoors if~~ provided that the employee's hands are washed in accordance with Paragraph (e) of this Rule ~~upon returning~~ when the employee returns indoors. This shall not apply when the employee's action that necessitates handwashing is diapering, food preparation, or food service.

~~(b)~~(c) ~~Children~~ Child care center employees shall ensure that children ~~shall~~ wash their hands as follows:

(1) upon arrival at the child care center;
(2) after each diaper change or visit to the toilet;
(3) before eating meals or snacks;
(4) before and after water play;
(5) after ~~outdoor activity~~ being outdoors; and
(6) after handling animals or animal cages.

(d) Except ~~for diapering and before eating meals or snacks,~~ when the action that necessitates handwashing is diapering and before eating meals or snacks, hand ~~sanitizing products~~ antiseptics may be used in lieu of handwashing while ~~children are outdoors~~ a child is outdoors, ~~if~~ provided that the child's hands are washed ~~upon returning~~ when the child returns indoors.

~~(c)~~(e) Handwashing procedures shall ~~include:~~ include the following steps:

(1) using liquid soap and tempered water;
(2) rubbing hands vigorously with soap and tempered water for 15 seconds;
(3) washing all surfaces of the hands, to include the backs of hands, palms, wrists, under ~~fingernails~~ fingernails, and between fingers;
(4) rinsing the hands ~~well~~ under tempered water for ~~ten~~ 10 seconds;
(5) drying the hands with a paper towel or other hand-drying device; and
(6) turning off faucet with a paper towel or other method without recontaminating hands.

~~Note: Refer to Rule .2828 of this Section for history.~~

Authority G.S. 110-91.

15A NCAC 18A .2804 FOOD SUPPLIES

(a) In child care centers, food shall be kept free from spoilage, filth, or other contamination and shall be safe for human consumption. Potentially hazardous foods, including foods packaged in hermetically sealed containers, shall be obtained only from sources that are permitted or inspected by a local health department, the North Carolina Department of Agriculture and Consumer ~~Services~~ Services, or other government ~~regulatory~~ agency. The use of food packaged in hermetically sealed containers that was not prepared in a commercial food processing establishment is prohibited. Food prepared at home and sent ~~from home~~ to a child care center to be shared with other children shall be limited to ~~non-potentially hazardous~~ baked ~~goods.~~ goods that are not potentially hazardous foods.

(b) Milk products that are used shall be Grade "A" pasteurized fluid milk and fluid milk products or evaporated ~~milk.~~ milk as set forth at 02 NCAC 09G .2001. ~~The term "milk products" means those products as defined in 15A NCAC 18A .1200. Copies of 15A NCAC 18A .1200 may be obtained from the Environmental Health Services Section, Division of Environmental Health.~~ Unless prescribed by a ~~physician,~~ health care provider, dry milk and dry milk products shall be used only for cooking purposes, including cooked pudding desserts and flavored hot beverages.

(c) Steamed and uncooked shellfish, raw eggs, and products containing raw eggs including raw cookie dough, cake batter, brownie mix, ~~milkshakes~~ milkshakes, and ice cream shall not be consumed by children. ~~A~~ This requirement shall not apply when a pasteurized egg product is ~~may be~~ used as a substitute for raw eggs.

(d) ~~Breast~~ Human milk, formula, and other bottled beverages, including beverages in sippy cups, that are sent from home shall be fully ~~prepared,~~ prepared ~~dated,~~ and labeled with the date received at the child care center and the name of ~~identified for~~ the ~~appropriate~~ child to whom the milk, formula, or beverage belongs before being brought to the child care center. ~~at the child's home.~~ All ~~breast~~ human milk, formula, and other bottled beverages shall be ~~returned to the child's~~ sent home with the child whose name is on the label or discarded at the end of each day. ~~Frozen breast milk shall be stored frozen for up to seven days. Frozen breast milk shall be labeled with the date received and date thawed for use. Previously frozen breast milk shall be refrigerated and may be stored for no more than 24 hours. Microwaves shall not be used to thaw or warm breast milk, baby food, formula or other bottled beverages. Bottle warming equipment shall be inaccessible to children when in use and shall be emptied, cleaned and sanitized daily. Previously frozen breast milk shall not be refrozen for storage. Formula provided by the child care center shall be commercially pre-packaged, ready to feed, fully prepared, and packaged in single use containers. However, breast milk or formula that does not meet these requirements may be provided by the child care center as prescribed by the child's physician or instructed by parent or guardian in writing. Bottles and other drinking utensils provided by the child care center shall be sanitized in accordance with this Section.~~ Formula and other beverages ~~which~~ that require refrigeration, baby food ~~after opening,~~ that has been opened, and ~~breast~~ human milk shall be ~~identified for the appropriate~~ labeled with the name of the child to whom the beverage, baby food, or milk belongs and shall be refrigerated at ~~45°F (7°C)~~ 45 degrees Fahrenheit or below. ~~Upon opening, jars of baby food shall be covered, dated, refrigerated, and used within two days. Baby food may be served directly from the jar to one child if unused portions of the food are discarded after each feeding; otherwise, commercially prepared baby foods shall be served from a serving dish rather than the food jar. After the completion of each feeding, leftover formula, breast milk, and other bottled beverages shall be discarded or returned to the child's home at the end of each day.~~

(e) Frozen human milk may be stored frozen for three months. Any frozen human milk stored beyond seven days shall be stored in the freezer compartment of a full-size refrigerator that has a separate door to the freezer, in a chest freezer, or in an upright deep freezer. Frozen human milk shall be thawed and prepared in the child care center's kitchen or food preparation area. Frozen

human milk shall be labeled with the date received at the child care center and the date that it is thawed for use. Human milk that was previously frozen and has been thawed shall be refrigerated and stored for no more than 24 hours from when it was thawed. Human milk that was previously frozen and has been thawed shall not be refrozen for storage at the child care center.

(f) Formula provided by the child care center shall be commercial ready-to-feed formula that is pre-packaged in single-use containers. Formula that does not meet these requirements and human milk may be provided to a child by child care center employees as prescribed by the child's health care provider or as instructed, in writing, by the child's parent or guardian. Bottles and other drinking utensils provided by the child care center shall be sanitized in accordance with this Section.

(g) After opening, jars of baby food shall be covered, labeled with the date on which they were opened, refrigerated and used within two days of opening, provided that the baby food is not served directly from the jar. Baby food may be served directly from the jar to one child if unused portions of the food are discarded after each feeding; otherwise, commercially prepared baby foods shall be served from a serving dish rather than the food jar.

(h) After the completion of each feeding, any leftover formula, human milk, or other bottled beverages used during the feeding shall be discarded or sent home with the child whose name is on the label for the formula, human milk, or bottled beverage at the end of each day. Feeding is complete when the child care center employee has stopped feeding the child and the child has been removed from the feeding area in the child care center and returned to other activities. Bottles previously used for feeding shall not be returned to communal mechanical refrigeration. Nothing in these Rules shall prohibit human milk from being sent home at the end of the day with the child whose name is on the label for the human milk instead of being discarded when the child's parent or guardian has given the child care center written permission to send the human milk home.

(i) A water bottle that a child brings to the child care center from home and that is used only for water consumption by that child shall be exempt from the requirements of Paragraph (h) of this Rule. Instead, the water bottle shall be labeled with the name of the child to whom the water bottle belongs, individually stored in the child's cubby, and sent home with the child at the end of the day.

~~(e)~~(j) Child care centers ~~receiving~~ that receive and provide children with prepared meals or snacks from ~~outside~~ sources outside the child care centers, but not including meals or snacks sent from home, shall use meals and snacks obtained from food ~~handling~~ establishments that are permitted by a local health department, organizations that only serve prepared meals to child care centers, or another child care center inspected by a local health department. Child care centers may also receive and provide children with prepared meals from organizations not licensed as child care centers only when these organizations are providing prepared meals to licensed child care centers and are ~~centers. These organizations shall be~~ inspected ~~as child care centers by the local health department~~ in the county where the meal is ~~prepared.~~ prepared in accordance with G.S. 110-91(1). The inspection of these organizations shall be made by the local health department at the same time the inspection of the licensed child care center receiving these prepared meals is done. The inspection report of the organization providing these meals shall be a part of the inspection of the licensed child care center receiving the prepared meals, unless the organization is a permitted food handling establishment. ~~During transportation,~~ Food ~~food~~ shall be transported to the child care center that is receiving the prepared meals in a manner that ~~meet~~ meets the requirements of the Rules of this Section relating to hazards, food ~~protection~~ protection, and storage.

~~(f)~~(k) ~~Lunches~~ Lunches, snacks, and other meals that a child brings ~~brought~~ from home to the child care center shall be labeled with the date on which the food is brought to the child care center and the name of the ~~dated and identified for the appropriate~~ child to whom the food belongs at the child's home and shall be returned to the child's home or discarded at the end of each day. ~~Meals~~ Lunches, snacks, and other meals containing potentially hazardous foods shall be refrigerated at ~~45°F (7°C)~~ 45 degrees Fahrenheit or ~~below.~~ below and stored in the child care center kitchen or approved food preparation area. Hot foods that a child brings from home to the child care center in double-walled, insulated thermos containers may be stored outside of refrigeration at the child care center with the written permission of the child's parent or guardian.

~~(g)~~(l) Nothing in the Rules of this Section shall prohibit the use of fresh ~~garden~~ fruits and vegetables, including those grown at the child care center, so long as ~~they~~ the fruits and vegetables meet the requirements of the rules of this Section and are washed before being served.

Authority G.S. 110-91.

15A NCAC 18A .2806 FOOD STORAGE AND PROTECTION

(a) ~~In child care centers,~~ Once pre-packaged food has been opened, the food shall be stored in ~~approved,~~ clean, ~~tightly covered, storage~~ resealable bags or containers made of plastic or glass that are tightly covered and manufactured for the purpose of food storage. ~~once the original package is opened. Approved containers include resealable bags and other containers made of plastic or glass. Reusable containers that come in direct contact with food must be easy to clean, in good repair and intended for food storage.~~

(b) Food ~~items,~~ that ~~are~~ is stored in child care center classrooms or other rooms intended for child care use, shall be limited to ~~those food items which~~ foods that are individually packaged unless the classroom is equipped with a food preparation area. ~~Provisions shall be made to store and protect these food items from all potential sources of contamination and other nonfood items stored in the classroom.~~

(c) Notwithstanding Paragraph (b) of this Rule, bulk dry goods or food stored in freezers may be stored in rooms in a child care centers that are not equipped with a food preparation area when all food preparation involving the bulk dry goods or frozen food is done in the kitchen or an approved food preparation area.

(d) Bulk food stored in a refrigerator shall be stored at 45 degrees Fahrenheit or below and stored in the child care center's kitchen or in an approved food preparation area equipped with a full-size refrigerator. Specialty bulk milk that is sent from home for consumption by a child while at the child care center may be stored as set forth in this Paragraph when the child's parent or

guardian provides written permission and the specialty bulk milk is sent to the child care center at the beginning of each week unopened, labeled with the date received by the child care center, and labeled with the name of the child to whom the bulk specialty milk belongs. When bulk specialty milk packaging is opened, any remaining bulk specialty milk shall be sent home at the end of the week with the child to whom the bulk specialty milk belongs.

~~(c)~~(e) Dry ~~foods~~ goods that ~~are not readily identifiable and~~ are stored in containers shall be labeled.

~~(d) Food shall be stored above the floor in a manner that protects the food from splash and other contamination and that permits easy cleaning of the storage area.~~

~~(e)~~(f) Food and containers of food shall not be stored under exposed sewer lines. Food shall not be stored in toilet or laundry ~~rooms. Child~~ rooms, except that child care centers licensed for fewer than 13 children and located in a residence may store food in laundry rooms if the food is stored and protected as required in Paragraph ~~(f)~~(g) of this Rule.

~~(f)~~(g) ~~All food~~ Food shall be stored above the floor and in a manner to protect it from dust, ~~rodents, insects,~~ pests, drip, ~~splash~~ splash, and other contamination.

(h) Raw meats, poultry, fish, shellfish and eggs shall be stored in a refrigerator or freezer on shelving beneath and separate from other foods. The temperature of potentially hazardous food provided by the child care center for consumption by children shall be ~~45°F (7°C)~~ 45 degrees Fahrenheit or below, or ~~140°F (60°C)~~ at 135 degrees Fahrenheit or above at all times, including field trips, catering events, and outdoor service, except during ~~necessary~~ periods of preparation and service immediately prior to consumption. ~~service, and as otherwise provided in the Rules of this Section.~~

~~(g)~~(i) ~~Packaged~~ Sealed, commercially pre-packaged food ~~such as milk or other fluid containers~~ may be stored in undrained ice as long as the food is ~~any individual units are~~ not fully submerged in ice or water. Wrapped sandwiches and other foods shall not be stored in direct contact with ice.

~~(h)~~(j) ~~Refrigerated storage:~~(a) The following shall apply to refrigerated storage of food:

(1) Refrigeration equipment shall be provided in such number and of such capacity to ~~assure~~ ensure the maintenance of potentially hazardous food at the required temperatures during storage. Each refrigerator shall be provided with a numerically scaled indicating ~~thermometer,~~ thermometer that is accurate to ~~±3°F (± 1.5°C)~~ ± 3 degrees Fahrenheit and located to measure the air temperature in the warmest part of the refrigerator. ~~refrigerator and located to be easily readable.~~ Recording ~~thermometers,~~ thermometers that are accurate to ~~±3°F (± 1.5°C),~~ ± 3 degrees Fahrenheit may be used in lieu of indicating thermometers.

(2) Potentially hazardous food requiring refrigeration after preparation shall be cooled to an internal temperature of ~~45°F (7°C),~~ 45 degrees Fahrenheit or below. Cooling of potentially hazardous foods shall be initiated upon completion of the food preparation or hot storage. Methods such as pouring into pans, agitation, and chilling with ice or water circulation external to the food containers shall be used to cool potentially hazardous food. Potentially hazardous food ~~to~~ that will be transported cold shall be prechilled and held at a temperature of ~~45°F (7°C),~~ 45 degrees Fahrenheit or below.

(3) Ice used for cooling stored food and food containers shall not be used for human consumption.

~~(i)~~(k) The following shall apply to the hot storage of food: ~~Hot storage:~~

(1) Hot food storage equipment shall be provided in sufficient number and capacity to ~~assure~~ ensure the maintenance of food at the required temperature during storage. Each hot food unit shall be provided with a numerically scaled indicating ~~thermometer,~~ thermometer that is accurate to ~~±3°F (± 1.5°C)~~ ± 3 degrees Fahrenheit and located to measure the air temperature in the coolest part of the unit. ~~unit and located to be easily readable.~~ Recording ~~thermometer,~~ thermometers that are accurate to ~~±3°F (± 1.5°C)~~ ± 3 degrees Fahrenheit may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a metal ~~stem-type~~ stem-type, thin probe, numerically scaled indicating product thermometer that is accurate to ± 3 degrees Fahrenheit shall be ~~available and~~ used to check internal food temperature.

(2) The internal temperature of potentially hazardous foods requiring hot storage shall be ~~140°F (60°C)~~ 135 degrees Fahrenheit or above except during ~~necessary~~ periods of preparation and service. Potentially hazardous food ~~to~~ that will be transported hot shall be held at a temperature of ~~140°F (60°C)~~ 135 degrees Fahrenheit or ~~above.~~ above during transportation.

~~(j)~~(l) In the event of a fire, flood, water supply interruption, power outage, or ~~similar~~ other event that ~~might result~~ results in the contamination of food, or that might prevent potentially hazardous food from being held at required temperatures, the person in charge shall either discard the food in question or contact the local health department ~~department.~~ for information on food safety.

Authority G.S. 110-91.

15A NCAC 18A .2807 FOOD PREPARATION

(a) In child care centers, the preparation of food shall take place only in the ~~approved facilities~~ kitchen or space equipped as required in Rule .2810 of this Section.

(b) Employees engaged in food preparation in the kitchen shall wear clean clothes and hair restraints and shall keep their fingernails trimmed. Hair spray is not a hair restraint for the

purpose of this Rule. Employees engaged in food preparation who are wearing nail polish or artificial nails on their fingers shall wear intact gloves during food preparation.

~~(b)~~(c) Food shall be prepared ~~with the least possible manual contact,~~ using ~~with~~ utensils, deli paper, or disposable gloves to prevent exposed, ready-to-eat-food from coming into direct contact with an employee's bare hands or exposed skin. Food shall be prepared ~~and~~ on food contact surfaces that have been cleaned, rinsed, and sanitized prior to use. ~~use in order to prevent cross-contamination~~. Food contact surfaces and utensils that are exposed to bacterial, viral, fungal, or hazard contaminants during use shall be made clean, free from hazards, and sanitized before continued use.

~~(c) Food contact surfaces and utensils shall be cleaned and sanitized after preparing raw foods, prior to preparing ready-to-eat foods and after any interruption of operations in which contamination may have occurred.~~

(d) Raw fruits and raw vegetables shall be washed with potable water before being cooked or served.

(e) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least ~~140°F (60°C),~~ 145 degrees Fahrenheit, except that:

(1) poultry, poultry stuffings, stuffed meats and stuffings containing meat shall be cooked to heat all parts of the food to at least ~~165°F (74°C)~~ 165 degrees Fahrenheit with no interruption of the cooking process;

~~(2) pork and any food containing pork shall be cooked to heat all parts of the food to at least 150°F (66°C) with no interruption in the cooking process;~~

~~(3)~~(2) ground beef, ~~beef and foods containing~~ other ground or comminuted meat or fish, and eggs pooled and cooked for hot storage ~~beef~~ shall be cooked to an internal temperature of at least ~~155°F (68°C)~~ 155 degrees Fahrenheit with no interruption in the cooking process; and

~~(4)~~(3) roast beef shall be cooked to an internal temperature of at least ~~130°F (54ºC)~~ 130 degrees Fahrenheit with no interruption in the cooking process.

(f) Potentially hazardous foods that ~~requiring~~ require cooking prior to consumption and cooked in a microwave oven shall be ~~rotated during cooking to compensate for uneven heat distribution and shall be~~ heated to an internal temperature of at least 165 degrees Fahrenheit. ~~additional 25°F (13.9°C) to compensate for shorter cooking times.~~

(g) Potentially hazardous foods that have been cooked and then refrigerated, if served above ~~45°F (7°C),~~ 45 degrees Fahrenheit, shall be reheated to an internal temperature of ~~165°F (74°C)~~ 165 degrees Fahrenheit or higher before being served or before being placed in a hot food storage unit except ~~that,~~ that commercially packaged food in intact packages may initially be reheated to ~~140°F (60°C).~~ 135 degrees Fahrenheit. ~~Steam tables, warmers, and similar hot food holding units are prohibited~~ Hot storage equipment shall not be used for reheating of potentially hazardous foods. Potentially hazardous foods reheated in a microwave oven shall be heated to an internal temperature of at least 165 degrees Fahrenheit. ~~additional 25°F (13.9°C).~~

(h) Metal ~~stem-type~~ stem-type, thin probe, numerically scaled indicating product thermometers, accurate to ± 3 degrees Fahrenheit ~~2°F (1°C),~~ shall be ~~provided and~~ used to ~~assure~~ ensure the ~~attainment and~~ maintenance of ~~proper~~ the internal cooking ~~cooking, holding, or refrigeration~~ temperatures of all potentially hazardous ~~foods.~~ foods required under this Rule.

(i) Potentially hazardous foods that are frozen shall be ~~thawed:~~ thawed using one of the following methods:

(1) in refrigerated units at a temperature not to exceed ~~45°F (7°C);~~ 45 degrees Fahrenheit;

(2) submerged under potable water of a temperature of ~~70°F (21°C)~~ 70 degrees Fahrenheit or below, with sufficient water velocity to agitate and float off loose food particles into the overflow;

(3) in a microwave oven only when the food will be immediately transferred to conventional cooking equipment as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(4) as part of the ~~conventional~~ uninterrupted cooking process.

Authority G.S. 110-91.

15A NCAC 18A .2808 FOOD SERVICE

(a) In child care centers, milk and milk products used for drinking purposes shall be stored in the original commercially filled ~~container.~~ container until the milk or milk product is served for drinking. Unused milk and milk products that are transferred from the original commercially filled container into a separate container, such as a pitcher, for serving shall be discarded and shall not be put back into the original commercial filled container or stored in the container that was used for serving. ~~Serving containers may be used for food service provided the unused milk is discarded.~~

(b) Ice shall be ~~made, handled, transported, stored and dispensed in such a manner as to be~~ protected against physical, chemical, and biological ~~contamination.~~ contamination and shall be kept clean. Ice shall be dispensed with scoops, tongs, or other ice-dispensing utensils or through automatic ice-dispensing equipment. Ice-dispensing utensils shall be stored on a clean surface or in the ice with the dispensing utensil's handle extended out of the ice. Between uses, ice transfer receptacles shall be ~~stored to protect them from dust, drip, splash and other contamination~~. kept clean. Ice storage bins shall be drained through an air gap.

(c) ~~Employees preparing or serving food shall wash their hands in accordance with the procedures in Rule .2803(c) of this Section. Employees shall either use antibacterial soap, dips, or hand sanitizers immediately prior to food preparation or service or use clean, disposable gloves during food preparation or service. Employees engaged in food preparation in the kitchen shall wear effective hair restraints, keep their fingernails trimmed, clean and shall not wear fingernail polish or artificial fingernails unless wearing intact gloves. Hair spray is not an effective hair restraint.~~

~~(d) Once served, portions of~~ Food that is leftover after serving ~~food~~ shall not be served again unless the original package is ~~intact~~ unopened and the food is not a potentially ~~hazardous.~~ hazardous food. ~~Foods, including milk, placed~~ Foods that have been placed on the table for family style or self-serve food service are considered served.

~~(e)~~(d) Between uses during service, ~~dispensing~~ utensils that are used to serve food shall be stored in the food with the ~~dispensing~~ utensil handle extended out of the food, in a container of water if the water is maintained at a temperature of at least ~~140ºF (60ºC),~~ 135 degrees Fahrenheit, or stored clean and dry.

~~(f)~~(e) Children ~~attending child care centers~~ shall not be in the kitchen except when participating in a supervised activity.

~~(g)~~(f) Nothing in this Section shall be construed as prohibiting family style or self-serve food service at child care centers ~~so long as~~ provided that ~~supervision of the~~ children are supervised by child care center employees for the duration of the meal. ~~is maintained throughout each meal except that~~ Notwithstanding the foregoing sentence, family style or self-serve food service shall be prohibited during the outbreak and investigation of a communicable ~~diseases~~ disease or condition at the child care center.

Authority G.S. 110-91.

15A NCAC 18A .2809 FOOD SERVICE EQUIPMENT AND UTENSILS

In child care centers, ~~material and construction~~ material, construction, and use of food service equipment and utensils shall meet the following requirements:

(1) ~~Materials used in the construction of utensils and equipment~~ Utensils shall be ~~durable; corrosion resistant;~~ made of ~~nonabsorbent; non-toxic;~~ nonabsorbent material that is free from hazards, finished to have a smooth ~~smooth, easily cleanable surface; and resistant to pitting, chipping, cracking, scratching, distortion, and decomposition.~~ surface, and shall be kept clean and in good repair.

(2) ~~Food contact~~ Food contact surfaces shall be ~~smooth;~~ smooth, non-absorbent, ~~free of breaks, open seams, cracks, chips, pits and other imperfections;~~ free of sharp ~~internal angles, corners and crevices; and accessible for cleaning and inspection without being disassembled or by easy disassembly.~~ corners, and kept clean and in good repair. Hard maple or a nonabsorbent wood may be used for cutting boards, cutting blocks, or bakers' tables.

(3) ~~Nonfood contact~~ Other surfaces that do not come into contact with food shall be made of nonabsorbent material ~~with no obstructions to cleaning.~~ and shall be kept clean and in good repair.

~~(4) Solder shall be comprised of approved, non-toxic; corrosion resistant materials.~~

~~(5) Wood and wicker shall not be used as food contact surfaces, except hard maple or an equivalent nonabsorbent wood may be used for cutting boards, cutting blocks or bakers' tables.~~

~~(6)~~(4) Galvanized metal shall not be used for utensils, food contact ~~utensils, or food contact equipment.~~ surfaces, or cooking equipment that comes into contact with food.

~~(7)~~(5) Linens shall not be used as ~~food contact~~ food contact surfaces, except that clean linen may be used in contact with bread and rolls.

~~(8)~~(6) Single-use and single-service articles shall be kept clean.

~~(9)~~(7) Reuse of single-service articles is prohibited.

~~(10)~~(8) Single-use articles ~~such as formed buckets, bread wrappers, aluminum pie plates and cans~~ shall be used only ~~once~~ once, except that containers made of plastic, glass or other material intended for food storage, with smooth sides ~~and constructed to be easily cleaned~~ may be reused.

~~(11) Equipment and utensils that impart odors, color or taste, or contribute to the contamination of food shall not be used.~~

~~(12) Product thermometers and thermometer probes shall be of metal stem-type construction.~~

~~(13)~~(9) Water filters or any other water conditioning devices shall be ~~cleaned~~ kept clean and in good repair and shall be maintained in accordance with the manufacturer's instructions.

~~(14)~~(10) Filters and other grease extracting equipment shall be ~~cleaned~~ kept clean and in good repair and shall be maintained in accordance with the manufacturer's ~~specifications.~~ instructions.

Authority G.S. 110-91.

15A NCAC 18A .2810 SPECIFICATIONS FOR KITCHENS, FOOD PREPARATION AREAS AND FOOD SERVICE AREAS

(a) Each child care center shall have at least a two-compartment sink, drainboards or countertop space of adequate size, adequate refrigeration equipment and, when needed, adequate cooking equipment, except that this requirement shall not apply to ~~for~~ child care centers located in a school that receives ~~all~~ food supplies that are pre-prepared ~~prepared~~ and ready to serve from a food service establishment permitted by a local health department, which is located at the same school campus and provides food during all hours of the child care center's operation. ~~Domestic or commercial kitchen equipment may be used.~~ Child care centers shall be permitted to use domestic kitchen equipment. When a child care center is equipped solely with a two-compartment sink, only multi-use articles may be washed using the two-compartment sink. Child care centers using multi-service articles other than highchair feeding trays shall be equipped with either:

(1) ~~also provide a dishwasher. In lieu of~~ a dishwasher and two-compartment ~~sink,~~ sink, or

(2) a three-compartment sink of sufficient size and depth to submerge, wash, rinse and sanitize utensils. ~~utensils may be used.~~

(b) A separate lavatory for handwashing is required in food preparation ~~areas.~~ areas and kitchens. If the dishwashing area is separate from the food preparation area, an additional handwashing lavatory shall be ~~required.~~ required in the dishwashing area.

(c) A separate food preparation sink with drainboards or countertop space of adequate size shall be required when a ~~plan~~ review of construction plans, modifications, or change in child care procedures indicates that separate facilities are needed based on volume and preparation frequency.

(d) Except in child care centers licensed for fewer than 13 children and located in a residence, when ~~When~~ domestic refrigeration equipment is used ~~used, except in child care centers licensed for fewer than 13 children and located in a residence,~~ the following ~~provisions~~ shall apply:

(1) except for thawing ~~under refrigerated conditions,~~ in a refrigerator, potentially hazardous foods shall not be prepared prior to the day that such foods are to be served;

(2) potentially hazardous foods that have been heated shall not be reheated or placed in refrigeration to be used in whole or in part on another day; and

(3) salads containing potentially hazardous food shall not be prepared on site. Prohibited salads include chicken, egg, tuna, crab, and other salads containing meat.

(e) A commercial hood shall be installed in accordance with G.S. 110-91 when frying is used for food preparation on-site at the child care center. ~~on site. The hood shall be installed in accordance with the North Carolina Building Code and approved by the local building code enforcement agent.~~

(f) If food is prepared in a child care center classroom, then the classroom shall be equipped with a food preparation area. ~~area shall be provided.~~ Water from a handwash lavatory shall not be used for bottle warming or to prepare formula, mix dry cereals, or other foods. Toy cleaning and sanitizing may ~~also~~ be conducted in ~~this~~ the food preparation area. This food preparation area shall contain a ~~an easily cleanable~~ countertop that is kept clean and in good repair, ~~and~~ a ~~lavatory~~ lavatory, and ~~and, when needed, adequate refrigeration.~~ refrigeration when items are stored that require refrigeration in accordance with Rules .2804 and .2806 of this Section. The food preparation counters, ~~bottle warming equipment if used, food~~ food, and food contact surfaces shall be out of reach of children and the following shall ~~apply:~~ apply to food preparation counters, food, food contact surfaces, and equipment used in food preparation:

(1) all equipment shall be ~~cleaned at least daily.~~ kept clean. Bottle warming ~~Warming~~ equipment shall be cleaned and sanitized as required in Rule .2812 of this ~~Section;~~ Section and the manufacturer's instructions;

(2) bottles shall be warmed in the child care center's kitchen or food preparation area. Bottle warming equipment shall be kept out of reach of children. Microwaves and slow cookers shall not be used to thaw or warm human milk, baby food, formula, or other bottled beverages meant for consumption by children. Bottles shall be warmed by placing bottles under running potable water or in containers of potable water or by using bottle warming equipment that is used in accordance with the manufacturer's instructions. Temperature restrictions listed in Rule .2815(e) do not apply to equipment manufactured specifically for bottle warming. If other bottle warming methods are used in food preparation areas, compliance with temperature restrictions listed in Rule .2815(e) is required; and

~~(2)~~(3) after each use, ~~all~~ multi-service articles provided by the child care center shall be cleaned and sanitized in the child care center ~~kitchen;~~ kitchen.

~~(3) single service articles shall be handled as required in Rule .2814 of this Section; and~~

~~(4) counter, shelf or cabinet space shall be provided for food storage. Food supplies shall be stored in accordance with Rule .2806 of this Section.~~

Authority G.S. 110-91.

15A NCAC 18A .2812 CLEANING AND SANITIZING EQUIPMENT AND UTENSILS

(a) Each child care center shall be equipped with adequate drainboards or countertop space for handling used utensils and air drying clean and sanitized utensils. ~~In child care centers, drainboards or countertop space of adequate size shall be provided for handling of soiled utensils prior to washing and cleaned utensils following sanitizing~~. For child care centers originally licensed on or after April 15, 1998, drainboards or countertop space shall be no less than 8 square feet. A domestic dishwasher may be used to provide the equivalent of 4 square feet of drainboard space. ~~space and other designated areas not contiguous with the sink may be utilized to meet drainboard or countertop space requirements.~~ Drainboards or countertop space designated for clean equipment and utensils shall be on the opposite end of the sink from drainboards or countertop space designated for ~~soiled~~ equipment and utensils that are not clean, unless these areas are otherwise separated and protected from ~~cross-contamination.~~ cross-contamination. Child care centers originally licensed before April 15, 1998 shall comply with this Paragraph upon ~~Upon~~ change of ownership, ~~or~~ the closing of the ~~operation~~ child care center and the issuance of a new license, or the remodeling of an existing kitchen in ~~kitchen,~~ a child care center. ~~center shall also comply with this Paragraph.~~

(b) Except for fixed equipment and utensils too large to be cleaned in sink compartments, equipment and utensils that are cleaned manually instead of in a dishwasher shall be washed, rinsed, and sanitized ~~manual washing, rinsing, and sanitizing shall be conducted in the following sequence:~~ as follows, in the order of the steps presented herein:

(1) ~~when necessary,~~ equipment and utensils shall be scraped, ~~flushed,~~ flushed with water, or soaked with water to remove food particles;

(2) sinks shall be cleaned and sanitized prior to use;

(3) equipment and utensils shall be washed in the first compartment of the sink with a hot

detergent solution that is changed once visibly soiled;

(4) equipment and utensils shall be rinsed free of detergent solution ~~and abrasives~~ with clean water in the second ~~compartment;~~ compartment of the sink; and

(5) the food-contact surfaces of equipment and utensils shall be sanitized in the third compartment of the sink in the following manner:

(A) immersion for at least one minute in clean, hot water at a temperature of at least ~~170°F (77°C)~~ 170 degrees Fahrenheit; ~~in dish baskets of such size and design to permit complete immersion of the tableware, kitchenware and equipment in the hot water;~~

(B) immersion for at least two minutes in a ~~clean~~ solution containing 50 to 200 parts per million (ppm) of chlorine at a temperature of at least ~~75°F (24°C);~~ 75 degrees Fahrenheit;

(C) immersion for at least two minutes in a ~~clean~~ solution containing at least 12.5 ppm of iodine and having a pH not higher than 5.0 and at a temperature of at least ~~75°F (24°C);~~ 75 degrees Fahrenheit;

(D) immersion for at least two minutes in a ~~clean~~ solution containing 200 to 400 ppm of quaternary ammonium products and having a temperature of at least ~~75°F (24°C),~~ 75 degrees Fahrenheit, provided that the quaternary ammonium product ~~is labeled to show~~ label indicates that it is effective in water ~~having~~ that has a hardness value at least equal to that of the water being used; or

(E) other sanitizing products, procedures, or equipment that are equally as or more effective than ~~as~~ those described above in Part (b)(5)(A)-(D) of this Rule may be used if these products are nontoxic to children, used according to the manufacturer's instructions, ~~instructions and approved by the Department.~~ are safe for use on food contact surfaces, do not require a final rinse step, and have a testing method.

(c) When utensils and equipment are washed mechanically using a dishwasher, For ~~mechanical cleaning and sanitizing,~~ food-contact surfaces of equipment and utensils shall be sanitized according to the dishwasher manufacturer's instructions. When a domestic dishwashing machine with a sanitizing cycle is used according to manufacturer's instructions, additional sanitizing is not required. When commercial dishwashing equipment is used, the dishwasher shall be equipped with a temperature indicating ~~device,~~ device that is accurate to 2 degrees Fahrenheit. ~~2ºF (1ºC), shall be provided.~~

(d) For fixed equipment and utensils and equipment ~~which~~ that are ~~either~~ too large ~~or impractical~~ to sanitize in a dishwashing machine or dishwashing sink, a spray-on or wipe-on sanitizer of sufficient chemical strength as indicated in ~~Paragraph (b)~~ Subparagraph (b)(5) of this Rule shall be used. ~~Spray-on or wipe-on sanitizers shall be prepared daily and kept on hand for bactericidal treatment.~~

(e) Multi-service articles, including highchair feeding trays, shall be washed, rinsed and sanitized in the child care center kitchen after each use.

(f) ~~Nonfood-contact~~ Kitchen surfaces that are not food contact surfaces shall be kept clean. ~~cleaned to keep equipment free of accumulation of dust, dirt, food particles and other debris.~~

(g) A testing method or ~~equipment,~~ equipment shall be used in accordance with the product manufacturer's instructions ~~instructions, shall be made available, convenient, and regularly used~~ to test the strengths of ~~these chemical~~ sanitizing solutions to ensure the prescribed concentrations are met.

(h) After sanitizing, all equipment and utensils shall be air dried.

Authority G.S. 110-91.

15A NCAC 18A .2814 FOOD SERVICE EQUIPMENT AND UTENSIL STORAGE

(a) In child care centers, food contact surfaces, equipment, utensils, and single service articles shall be protected from contamination. ~~cleaned and sanitized equipment and utensils, including single-service articles, shall be handled in a way that protects the food-contact surfaces from contamination. Spoons, knives, and forks shall be handled with the least amount of contact necessary. Cups, glasses, bowls, plates, and similar items shall be handled without contact with inside surfaces or surfaces that contact the user's mouth.~~

(b) Cleaned and sanitized utensils and equipment shall be stored above the floor in a clean, dry location and shall be kept clean while stored. ~~in a way that protects them from dust, insects, drip, splash and other contamination and facilitates floor cleaning.~~ The ~~food-contact~~ food contact surfaces of fixed equipment shall ~~also~~ be ~~protected from contamination.~~ kept clean while stored or otherwise not in use. Equipment and utensils shall not be ~~placed~~ stored under exposed sewer lines.

Authority G.S. 110-91.

15A NCAC 18A .2815 WATER SUPPLY

(a) ~~In~~ A child care ~~centers, the~~ center's water supply shall meet the requirements of 15A NCAC 18C or 15A NCAC 18A .1700, as applicable. ~~.1700 Protection of Water Supplies. In addition, any~~ The operator of a child care center using a groundwater supply that serves 25 or more people shall provide the local health department serving the county in which the child care center is located with documentation from the Department of Environmental Quality, Division of Water Resources, Public Water Supply Section that the well meets the requirements of 15A NCAC 18C. In child care centers that use a non-community water supply, ~~A~~ a water sample shall be collected by the Department once a year and submitted to the North Carolina State Laboratory

of Public Health or other laboratory certified by the North Carolina State Laboratory of Public Health under 10A NCAC 42C .0102 to perform ~~a state certified laboratory for~~ bacteriological examinations. ~~analysis annually if the child care center is not served by a community water supply~~.

The Department may collect additional samples for ~~Other~~ tests of water quality, as indicated by possible additional sources of contamination. ~~contamination, may be collected by the Department.~~

(b) Water under pressure shall be provided to meet the child care center's needs of cooking, cleaning, drinking, toilets, and outside uses. ~~uses in accordance with the North Carolina Plumbing Code.~~

(c) A child care center's water supply plumbing shall not include cross-connections as set out in 15A NCAC 18C .0102(c)(8). ~~No cross-connections with an unapproved water supply shall exist.~~ If the potential for back siphonage or backflow conditions exist, an ~~approved~~ atmospheric vacuum breaker or backflow prevention device shall be installed. ~~installed in accordance with the North Carolina Plumbing Code.~~

(d) Water heating equipment shall be provided to meet the ~~maximum~~ hot water requirements set forth in this Rule. ~~of the child care center.~~ The capacity and recovery rates of water heating equipment shall be based on number and size of sinks, capacity of dishwashing machines, capacity of laundering machines, diaper changing facilities, and other food service and cleaning needs for child care centers not located in a residence. Child care centers licensed for fewer than 13 children and located in a residence ~~may~~ shall be allowed to use an existing water heater, or the equivalent replacement, if ~~all required temperatures are maintained.~~ the water temperature requirements set forth in this Rule are met. Hot and cold water under pressure shall be provided in all rooms where food is prepared, rooms in which utensils or equipment are washed, and other areas where water is required for cleaning and sanitizing, including diaper changing areas.

(e) Hot water used for cleaning and sanitizing ~~food~~ utensils and laundry shall be provided at a minimum temperature of ~~120°F (49°C)~~ 120 degrees Fahrenheit at the point of use. Water in areas accessible to children shall be tempered between ~~80°F (27°C) and 110°F (43°C).~~ 80 degrees Fahrenheit and 110 degrees Fahrenheit. Hot water that exceeds 120 degrees Fahrenheit is a burn hazard and shall not be provided in areas accessible to children. For handwash lavatories used exclusively by school-age children, the ~~80°F (27°C)~~ 80 degrees Fahrenheit minimum temperature requirement shall not apply. ~~Hot water in an area accessible to any child, which is in excess of 120°F (49°C), shall be considered a burn hazard.~~ Child care centers serving only school-age children ~~are~~ shall not be required to provide hot water in areas accessible to children. In the event of the loss of hot ~~water,~~ water at the child care center, the ~~person in charge~~ operator shall immediately ~~contact~~ notify the local health ~~department.~~ department that serves the county in which the child care center is located.

(f) Drinking fountains, if provided, shall ~~comply with the North Carolina Plumbing Code,~~ be separate from handwash ~~lavatories,~~ lavatories and kept clean. The water pressure of a drinking fountain shall be regulated so that an individual's mouth does not come in contact with the nozzle and so that water does not splash on the floor. Other ~~approved dispensing~~ devices ~~may be~~ used ~~and~~ to dispense drinking water shall be kept clean.

(g) Outdoor drinking fountains shall be constructed to protect the spout from contamination by hazards and shall be kept clean.

Authority G.S. 110-91.

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

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

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

(1) Child care operators, as defined under G.S. 110-86(7), shall test, once every three years, all water outlets used for drinking or food preparation. Samples shall also be collected and tested within 30 calendar days of completion of any renovations or repairs that may impact the facility's drinking water infrastructure, such as repair or replacement of all or part of drinking water service lines or faucets. The operator shall provide documentation of testing results for review by the Department during each unannounced routine sanitation inspection under Rule .2834(b) of this Section. ~~Notwithstanding Rule .2801(5) of this Section, "Department" means North Carolina Department of Health and Human Services for purposes of this Rule.~~

(2) For child care centers that submit an application for licensure in accordance with 10A NCAC 09 .0302 after the effective date of this Rule, initial samples shall be collected by the child care operator and tested in accordance with Subparagraph (b)(4) of this Rule during the license application process.

(3) For all other centers, initial samples shall be collected by the child care operator and tested in accordance with Subparagraph (b)(4) of this Rule within one year of the effective date of this Rule.

(4) The child care operator shall collect samples and submit them for testing in accordance with guidance specified by the United States Environmental Protection Agency in its publication, 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, which is incorporated by reference with subsequent changes or amendments and available free of charge at https://www.epa.gov/ground-water-and-drinking-water/3ts-reducing-lead-drinking-water. ~~https://www.epa.gov/dwreginfo/3ts-reducing-lead-drinking-water-schools-and-child-care-facilities.~~ Notwithstanding the guidance, samples may be collected with a stagnation period of up to 72 hours. Samples shall be analyzed by a laboratory certified by

the North Carolina State Laboratory of Public Health to analyze for lead in drinking water.

(5) When a water sample is analyzed for lead content by a laboratory under this Rule, the laboratory shall notify the Department of the test results by electronic submission in accordance with G.S. 130A-131.8.

(6) When a child care center receives test results from a laboratory indicating that a water sample collected by the child care operator contains a lead concentration at or above the lead poisoning hazard level defined in G.S. 130A-131.7(7)(g), the child care operator shall:

(A) restrict access to any water outlet(s) used for drinking or food preparation that have lead concentrations at or above the lead poisoning hazard level; and

(B) ensure that all children and staff have access to water free of cost that does not contain lead concentrations at or above the lead poisoning hazard level for drinking and food preparation.

(7) When notified of a water lead level at or above the lead poisoning hazard level, the Department shall conduct sampling at the water outlet identified to have a water lead level at or above the lead poisoning hazard level within 10 business days of notification.

(8) If a water sample collected by the Department reveals a water lead level at or above the lead poisoning hazard level, the child care operator shall continue to follow Subparagraph (b)(6) of this Rule until the Department determines the water outlet(s) are not producing water lead levels at or above the lead poisoning hazard level and notifies the child care operator and the Division of Child Development and Early Education in writing of this determination.

(9) Failure to comply with Paragraph (a) of this Rule or any Subparagraph of this Paragraph, shall be deemed a violation of this Rule subject to demerits under Rule .2834(c)(20) of this Section.

(10) Within five business days of receiving the test results of the Department's water analysis that shows a water lead level at or above the lead poisoning hazard level, the child care center operator shall provide written notification of the test results to the parents or legal guardians of the children attending the child care center and the staff of the child care center, in accordance with the United States Environmental Protection Agency guidance specified in Subparagraph (b)(4) of this Rule.

(11) Within five business days of receiving the test results of the Department's water analysis that shows a water lead level at or above the lead poisoning hazard level, the child care center operator shall make the test results available to the public, free of charge. The child care center operator may post test results to the child care center's website to satisfy the requirement to make the test results available to the public.

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

15A NCAC 18A .2817 TOILETS

(a) In child care centers, toilet tissue paper shall be provided in each toilet room and stored in a clean, dry place. The toilet room shall include or be adjacent to a handwash lavatory. Storage in toilet rooms shall be limited to toileting and diapering supplies. All toilet fixtures shall be ~~easily cleanable,~~ kept clean and in good repair. Toilet fixtures shall be child-sized, ~~adapted adult~~ adult-sized toilets that are adapted to accommodate children, or potty chairs.

(b) Toilet fixtures shall be cleaned and disinfected ~~at least~~ daily and when visibly soiled. ~~A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.~~

(c) If potty chairs are used, they shall be located and stored in a toilet room equipped with a spray-rinse toilet or utility sink. Potty chairs shall be emptied, rinsed, cleaned and disinfected after each use. ~~use with a disinfecting solution as described in Paragraph (b) of this Rule.~~

(d) When cloth diapers are used and emptied, the diaper changing area shall be located next to a toilet room.

Authority G.S. 110-91.

15A NCAC 18A .2818 LAVATORIES

(a) In child care centers, lavatories shall be ~~easily cleanable,~~ kept clean and in good ~~repair,~~ repair and ~~kept free of~~ shall not be used for storage. Lavatories shall be mounted at an appropriate height to accommodate ~~the children,~~ children or otherwise made ~~accessible.~~ accessible to children. Water from a handwash lavatory shall not be used for consumption. Lavatories with ~~Any lavatory may be used for handwashing as specified in 15A NCAC 18A .2803, except for~~ flush-rimmed sinks ~~and those~~ or with an attached operable drinking ~~fountain.~~ shall not be used for handwashing.

(b) Lavatories shall be equipped with hot and cold water or tempered water provided through mixing faucets or pre-mixing devices which provide water in the temperature range specified in Rule .2815(e) of this Section.

(c) Lavatories shall be cleaned and disinfected with each change of use, ~~as needed~~ when visibly soiled, and at least daily. Change

of use occurs when a handwash lavatory is used outside of its original intent. Change of use includes, but is not limited to, a classroom handwash lavatory used for rinsing toothbrushes, a food preparation handwash lavatory used for toy cleaning or a classroom handwash lavatory used for diaper changing handwashing. ~~A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used for this purpose. A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions and restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed.~~

(d) Liquid soap and disposable towels or other hand-drying devices shall be provided at every handwash lavatory area.

(e) Handwash signs shall be posted at every handwash lavatory area. The signs shall instruct children and child care center employees to wash their hands in accordance with Rule .2803 of this Section.

Authority G.S. 110-91.

15A NCAC 18A .2819 DIAPERING AND DIAPER CHANGING FACILITIES

(a) In child care centers, children in diapers shall be changed at stations designated for diapering or toileting. Each diaper changing station shall include a handwash lavatory. For child care centers licensed for fewer than 13 children and located in a ~~residence~~ residence, and for diaper changing areas designated for school age children, a handwash lavatory shall be in or next to ~~a~~ the diaper changing area.

(b) Diapering surfaces shall be made of smooth, intact, ~~nonabsorbent,~~ nonabsorbent material and shall be kept clean and in good repair. ~~easily cleanable and shall be approved by the Department.~~ Nothing shall be placed on the diapering surface except for those items required for ~~diapering.~~ diapering and the child whose diaper will be changed. If diapering is performed on the floor in a toilet room, then a smooth, intact, nonabsorbent barrier that is clean and in good repair shall be placed on the floor to minimize cross-contamination.

(c) ~~A disinfecting solution as set out in 15A NCAC 18A .2801(7) shall be used to disinfect diapering surfaces.~~ Diapering surfaces shall be disinfected using an approved disinfectant. ~~A testing method shall be made available to ensure compliance with the prescribed bleach solution concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Products registered with the U.S. Environmental Protection Agency as hospital grade germicides or disinfectants or as disinfectants for safe use in schools, child care centers, institutions or restaurants are also approved disinfectants, provided the manufacturer's Material Safety Data Sheets are kept on file at the child care center and the instructions for use are followed. Cleaning and disinfecting solutions~~ Approved disinfectants and detergent solution shall be kept in separate and labeled bottles at each diaper changing station. Approved disinfectants that are ~~Bleach~~ chlorine disinfecting solutions shall be stored in hand pump spray bottles. No cloths or sponges shall be used on diapering surfaces.

(d) ~~Diaper changing procedures shall include:~~ Child care center employees shall change a child's diaper as follows:

(1) gathering supplies before placing child on diapering surface;
(2) donning disposable gloves (if needed);
(3) using disposable towelette or moistened paper towel to clean child, wiping front to back;
(4) disposing of gloves if used, soiled towelettes and diaper in a plastic-lined, covered receptacle;
(5) wiping hands with a disposable towelette or moistened paper towel;
(6) sliding a clean diaper under the child, applying diapering products ~~(if needed)~~ if needed, using facial or toilet tissue, and discarding the tissue in a plastic-lined, covered receptacle;
(7) fastening the diaper and placing clothing on child;
(8) washing child's hands in accordance with Rule .2803 of this Section, or, if child is unable to support ~~her or his~~ the child's head, cleaning the child's hands with a disposable towelette or moistened paper towel, then drying the child's hands and returning the child to a supervised area;
(9) spraying entire diapering surface with detergent solution and wipe clean, using disposable paper towels;
(10) spraying entire diapering surface with an approved disinfectant ~~disinfecting solution~~ and allowing to remain on the surface for two minutes or as specified by the manufacturer, or air dry; and
(11) washing hands in accordance with Rule .2803 of this Section even if disposable gloves are used by the ~~caregiver.~~ child care center employee.

(e) Vinyl or latex disposable gloves shall be used by ~~caregivers~~ child care center employees during the diaper changing process if ~~she or he~~ the employee's hands have ~~has cuts or sores on her or his hands~~ cuts, sores, or ~~has~~ chapped skin. ~~hands.~~

(f) ~~Caregivers~~ Child care center employees may dispose of feces ~~in~~ from diapers in the toilet, but shall not rinse soiled cloth diapers, ~~or~~ training ~~pants~~ pants, or clothes. Soiled cloth diapers, training ~~pants~~ pants, or clothes shall be sent to a diaper service or placed in a ~~tightly closed~~ sealed plastic bag or other ~~equivalent~~ sealed container, ~~container approved by the Department,~~ stored out of reach of children, and sent ~~daily to the child's~~ home with the child on the same day to be laundered.

(g) Receptacles containing soiled disposable diapers shall be emptied in ~~an exterior~~ garbage area ~~at least~~ located outside the child care center building daily.

(h) ~~Instructions~~ Signs that instruct ~~for caregivers~~ child care center employees on proper methods of diaper changing and handwashing as set forth in the rules of this Section shall be posted in each diaper changing area.

Authority G.S. 110-91.

15A NCAC 18A .2820 STORAGE

(a) In child care centers, adequate space shall be provided for the storage of equipment, furniture, toys, clothes, linens, backpacks, book bags, diaper bags, beds, cots, mats, and ~~supplies~~ supplies. Storage areas ~~and~~ shall be kept clean. ~~Shelving or other storage areas shall be provided and constructed in a manner to facilitate cleaning. Soiled laundry~~ Laundry that is not clean shall be handled and stored separately from clean laundry using separate ~~cleanable containers.~~ containers that are made clean in between uses and kept in good repair.

(b) ~~All~~ Toxic substances, which include corrosive agents, pesticides, bleaches, detergents, cleansers, polishes, any product which is under pressure in an aerosol dispenser, and any substance which may be hazardous to a child if ingested, inhaled, or handled shall be kept in ~~its~~ the original container or in another labeled container, used according to the manufacturer's ~~instructions~~ instructions, and stored in a locked storage room or cabinet when not in use. Locked storage rooms and cabinets shall include those which are unlocked with a ~~combination,~~ combination lock, electronic or magnetic device, keypad, key, or equivalent locking device. ~~These~~ Keys and electronic or magnetic unlocking devices shall be kept out of the reach of a child and shall not be stored in the lock. Toxic substances shall be stored below or separate from medications and food. Any other product ~~not listed above, which~~ that is labeled "keep out of reach of children" and does not have any ~~without any~~ other ~~warnings,~~ warnings on the label shall be kept inaccessible to children when not in use, but is not required to be kept in locked storage. For the purpose of Paragraphs (b), (c), and (d) of this Rule, a ~~The~~ product shall be considered inaccessible to children when stored on a shelf or in an unlocked cabinet that is mounted a minimum vertical distance of five feet above the finished floor.

(c) Non-aerosol ~~sanitizing, disinfecting,~~ sanitizing solutions, approved disinfectants, ~~and~~ detergent solutions, hand ~~sanitizers,~~ antiseptics, and hand lotions shall be kept ~~out of reach of~~ inaccessible to children when not in use, but are not required to be in locked storage. These solutions shall be labeled as sanitizing, disinfecting, or detergent ~~(soapy water)~~ solutions. Hand soap other than that which is in bulk containers is not required to be kept ~~out of reach of~~ inaccessible to children or in locked storage. Bulk soaps shall be kept inaccessible to children.

(d) Medications including prescription and non-prescription items shall be stored in a locked cabinet or other locked container and shall not be stored above food. Designated emergency medications shall be kept ~~stored out of reach of~~ inaccessible to children, but are not required to be in locked storage. Non-prescription diaper creams and sunscreen shall be kept ~~out of reach of~~ inaccessible to children when not in use, but are not required to be in locked storage.

(e) A locked kitchen is not considered to be a locked storage room or cabinet for the purposes of this Rule; however, for child care centers that are located within a school and that use the school cafeteria's kitchen to meet the kitchen requirements of the rules of this Section, it shall not be a violation of this Rule to store products described in Paragraphs (a)-(d) of this Rule unlocked in the cafeteria's kitchen, provided that the kitchen is kept locked and a restriction is placed on the child care center's license by the licensing agency that prohibits children from being in the kitchen for any purpose.

~~(e)~~(f) Individual cubicles, lockers, or coat hooks shall be provided for storage of coats, hats, bags, or ~~similar items.~~ other items and accessories. Coat hooks not in individual cubicles or lockers, shall be spaced at least 12 horizontal inches apart. A child's coats, hats, bags, and other items or accessories belonging to a child that are stored using cubicles, lockers, or coat hooks shall not come into contact with stored items belonging to other children. Combs shall be labeled with the name of the child to whom the comb belongs and stored separately from combs or other items that belong to a different child. ~~individually.~~ Toothbrushes shall be ~~individually identified~~, labeled with the name of the child to whom the toothbrush belongs, allowed to air dry after use, and ~~protected from contamination.~~ kept clean. When a container of toothpaste is used for multiple children, the toothpaste shall be dispensed onto an intermediate surface such as waxed ~~paper.~~ paper and shall not be dispensed directly onto each child's toothbrush.

~~(f)~~(g) ~~Employee purses~~ Purses and other personal effects belonging to child care center employees shall be kept ~~out of reach of~~ inaccessible to ~~children.~~ children and shall be stored in accordance with this Rule, as applicable.

Authority G.S. 110-91.

15A NCAC 18A .2821 BEDS, COTS, MATS, AND LINENS

(a) In child care centers, ~~all~~ beds, cribs, cots, and mats shall be kept clean and in good repair, stored to prevent contamination, and cleaned and sanitized between users.

(b) Cribs and play pens used for sleeping shall be ~~easily cleanable,~~ kept clean and equipped with a firm, tight-fitting mattress made of waterproof, washable material at least two inches thick.

(c) ~~All beds,~~ Beds, ~~cots or~~ cots, and mats shall be assigned and labeled for use by an ~~each~~ individual ~~child,~~ child and equipped with individual linens.

(d) Mats shall be of a waterproof, washable material at least two inches thick and shall be stored so that the side of the mats that makes contact with the floor ~~side~~ does not touch the ~~sleeping~~ side of a mat that any child sleeps on. ~~or by an equivalent method approved by the Department.~~

(e) When in use, cribs, cots, mats and ~~playpens~~ play pens shall be placed at least 18 inches apart or separated by partitions ~~which~~ that prevent physical ~~contact.~~ contact between children.

(f) ~~Linen~~ Linens shall be kept clean, in good repair, and stored with the ~~individual~~ mat or cot that the linens are assigned to or stored apart from the mattress or cot in a manner that keeps the linens used for each child separate from the linens belonging to other children. ~~individually for each child in a designated area.~~ ~~Linen~~ Linens shall be laundered between users, when soiled, and otherwise ~~at least~~ once per week. ~~Linen~~ Linens used in rooms where the children in care are less than 12 months old shall be changed and laundered when soiled and otherwise at least daily.

Linens shall be large enough to cover the bed, cot, or mat's sleeping surface.
(g) Wash cloths, bibs, and burping cloths shall ~~not~~ be ~~used more than once until~~ laundered after each use. Each time a wash cloth, bib, or burping cloth is used, it shall be used for only one child. ~~and shall be laundered when soiled and at least daily.~~

Authority G.S. 110-91.

15A NCAC 18A .2822 TOYS, EQUIPMENT AND FURNITURE
(a) Toys, ~~equipment~~ equipment, and furniture provided by a child care center shall be kept clean and in good repair. In rooms designated for children who are not toilet trained, toys and other mouth-contact surfaces that are used by children shall be cleaned and then sanitized after each use ~~at least daily when used~~ and when ~~more frequently if~~ visibly dirty. ~~dirty,~~ Toys and other mouth-contact surfaces shall be cleaned and sanitized ~~by the following methods:~~ as follows:

(1) the items shall be scrubbed in warm, soapy ~~water~~ water, using a brush to reach into any crevices;
(2) the items shall be rinsed in clean water;
(3) the items shall be submerged in a sanitizing solution ~~as set out in 15A NCAC 18A .2801(22)~~ for at least two minutes or in accordance with the instructions on the label of the sanitizing solution; ~~sanitized with another approved sanitizing solution;~~ and
(4) the items shall be air dried.

~~A testing method or kit shall be available to ensure compliance with the prescribed concentration. To achieve the maximum germ reduction with bleach, the cleaned surfaces shall be left glistening wet with the bleach solution and allowed to air dry or be dried only after a minimum contact time of at least two minutes. Other sanitizing solutions that have been determined to be at least as effective as the chlorine bleach solution are acceptable as long as these products are nontoxic to children, used according to the manufacturer's instructions and approved by the Department.~~
(b) ~~Toys, items~~ Toys and other mouth-contact surfaces that are not designed to be submerged in liquid shall be washed and rinsed in place, sprayed with a sanitizing ~~solution~~ solution, and allowed to air dry. Hard plastic toys may be washed and rinsed in a dishwasher and cloth toys may be laundered and mechanically dried without requiring sanitizing.
~~(b)~~(c) Toys, furniture, cribs, or other items accessible to ~~children,~~ children shall be free of peeling, flaking, or chalking paint.
~~(c)~~(d) Water play centers shall be filled with potable water immediately ~~just prior~~ before children begin a ~~to each~~ water play session. Water shall be emptied after each play session and at a minimum each morning and afternoon, or more often if no longer clean. ~~visibly soiled.~~ The water play ~~centers~~ centers, including toys, shall be cleaned and sanitized at least daily or more often if no longer clean. ~~visibly soiled.~~ Water play is prohibited during the outbreak and investigation of a communicable ~~diseases~~ disease or condition at the child care center. ~~site.~~ Wading pools are not considered water play centers and are regulated under the rules in Section .2500 of this Subchapter. ~~15A NCAC 18A .2500.~~

Authority G.S. 110-91.

15A NCAC 18A .2823 PERSONNEL
(a) In child care centers, employees ~~and their~~ shall wear ~~clean.~~ clean clothing while at work. ~~shall be clean.~~ Employees shall keep their fingernails clean.
(b) Tobacco use in any form is prohibited in any part of a child care center. ~~center except in a designated area either outdoors, separate from the outdoor learning environment, or indoors in a room with a separate ventilation system approved by the building inspector.~~
(c) Volunteer personnel shall adhere to the same requirements as child care center employees, as specified in the rules of this Section.

Authority G.S. 110-91.

15A NCAC 18A .2824 FLOORS
(a) In child care centers, floors and floor coverings in ~~of all~~ food preparation, food storage, utensil washing, ~~utensil washing areas,~~ toilet rooms, and laundry areas shall be constructed of nonabsorbent material and shall be kept clean and in good repair. ~~nonabsorbent, easily cleanable material.~~
(b) Floors and floor coverings in ~~of all~~ sleeping and play areas shall be ~~constructed of easily cleanable materials.~~ kept clean and in good repair.
(c) Carpeting used as a floor covering shall be of closely woven ~~construction,properly installed, and easily cleanable.~~ construction and shall be kept clean and in good repair. Carpeted floors shall be vacuumed daily when children are not present in the room, except to clean up spills. Instead of waiting for children to leave the room, a High Efficiency Particulate Air (HEPA) filter vacuum cleaner may be used. If used for this purpose, a HEPA vacuum cleaner shall include a HEPA filter individually tested and rated as 99.97% efficient at 0.3 micron dust particle size and sealed to prevent leakage around connecting points. Vacuum bags shall be changed and vacuums shall be emptied when children are not present in the room. The vacuum cleaner shall be in good repair. Wall to wall carpets shall be cleaned using extraction methods at least once each six months. Cleaning materials including surfactants, ~~solvents~~ solvents, and water used for extraction shall be removed from the carpet before the space is reoccupied. When hot water extraction is used, the carpet shall be completely dry within 12 hours of cleaning.
(d) Floors in areas accessible to children, shall be kept free of peeling, ~~flaking~~ flaking, chalking, or otherwise deteriorating paint.
~~(e) All floors and floor coverings shall be kept clean and maintained in good repair.~~

Authority G.S. 110-91.

15A NCAC 18A .2825 WALLS AND CEILINGS
(a) In child care centers, the walls and ceilings, including doors and windows, of all rooms and areas shall be kept clean, free of visible fungal growth, and in good repair. All walls and ceilings shall be ~~easily cleanable and~~ free of peeling, flaking, chalking, or otherwise deteriorating paint.

(b) Walls and ceilings in rooms in which food is stored, ~~handled~~ handled, or prepared, utensil-washing rooms, and toilet rooms shall be nonabsorbent. Acoustic and other ceiling material may be used where ventilation in the room precludes the possibility of grease and moisture ~~absorption.~~ absorption by the acoustic or other material. For child care centers licensed for fewer than 13 children and located in a residence, ceilings of residential construction are acceptable if kept clean and in good repair.

Authority G.S. 110-91.

15A NCAC 18A .2826 LIGHTING AND THERMAL ENVIRONMENT

(a) In child care centers, all rooms and enclosed areas shall be lighted by natural or artificial light. ~~means.~~ Lighting shall be capable of illumination to at least 50 foot-candles at work surfaces. ~~surfaces. in kitchens and diaper changing areas and at children's work tables, desks and easels.~~ Lighting shall be capable of illumination to at least 10 foot-candles of light, at 30 inches above the floor, in all other areas, including storage rooms. Light fixtures in all areas shall be kept clean and in good repair. Shielded or shatterproof bulbs shall be used in food preparation, storage, and serving areas and in all rooms used by children.

(b) All rooms used by children shall be heated, cooled, and ventilated to maintain ~~a~~ an ambient temperature between ~~65°F (19°C)~~ 65 degrees Fahrenheit and ~~85°F (30°C).~~ 85 degrees Fahrenheit. Ventilation may be in the form of ~~operable~~ openable windows ~~which are screened~~ with screens or by means of mechanical ventilation to the ~~outside.~~ outside of the building. Windows and window treatments shall be kept clean and in good repair. All ventilation equipment, including air supply diffusers, ~~diffusers (heating and cooling vents) and~~ return grilles, and ~~fans, and all other ventilation equipment~~ fans shall be kept clean and in good repair.

(c) Nothing in the rules of this Section ~~requires~~ shall require that outdoor storage buildings be wired with electricity or provided with heating and air conditioning.

Authority G.S. 110-91.

15A NCAC 18A .2827 COMMUNICABLE DISEASES AND CONDITIONS

(a) In child care centers, ~~children~~ a child who ~~become~~ becomes ill to the extent that ~~they~~ the child can no longer participate in routine group activities shall be separated from the other children until the child leaves the ~~center.~~ child care center and in accordance with 10A NCAC 09 .1718(a)(6).

(b) Each child care center shall include a designated area for a child who becomes ill to the extent that she or he can no longer participate in the routine group activities. When in use, such area shall be equipped with a bed, ~~cot~~ cot, or mat and a vomitus ~~receptacle.~~ receptacle and shall be cleaned and disinfected after each use. Thermometers and all materials used in the designated ~~area~~ area, including ~~mouthable toys~~ toys, shall be cleaned and sanitized after each use. Linens ~~and disposables~~ shall be changed after each use.

(c) If the designated area required under Paragraph (b) of this Rule is not a separate room, then it shall be separated from space used by other children by a ~~partition, screen~~ partition or screen. ~~other means.~~ The designated area shall be located so that health and sanitation measures can be carried out without interrupting activities of other children and staff.

(d) The child care center shall have written procedures that employees shall follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the center. The procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, children, food, and surfaces to vomitus or fecal matter. The written procedures shall include the following information:

(1) Child care center employees who are part of the designated clean up response team;

(2) A supply list for vomit and diarrhea cleanup kit items that shall be kept on-site at the child care center, including:

(A) disposable personal protective equipment (gloves, apron, mask, shoe covers, and hair restraint);

(B) two disposable plastic bags;

(C) paper towels;

(D) a scoop or scraper;

(E) a mop and bucket; and

(F) an approved disinfectant;

(3) The location of the supplies described in Subparagraph (d)(2) of this Rule;

(4) A procedure for preventing access to the contaminated area;

(5) The steps used to clean and disinfect the contaminated area, which shall include the following:

(A) for hard surfaces, remove the vomit or diarrhea, wash the contaminated surface, and use an approved disinfectant.

(B) for carpet or upholstery, remove the vomit or diarrhea without use of vacuum, wash all surfaces, and steam clean using an approved disinfectant.

(6) The steps for after clean up, which shall including the following:

(A) throw away all items that came into contact with the vomit or diarrhea;

(B) remove all personal protective equipment (PPE);

(C) discard all cleaning items and PPE in a secured trash area;

(D) disinfect non disposable cleaning items such as scoops, scrapers, mop heads, mop handles, and buckets and discard of disposable cleaning items; and

(E) wash hands in accordance with the procedures in Rule .2803(e) of this Section.

(7) Identify steps for properly storing contaminated articles of clothing and cloth diapers that came into contact with the vomit or diarrhea in

accordance with the procedures in Rule .2819(f) of this Section.

~~(d)~~(e) Employees with a communicable disease or a communicable condition shall be excluded from work or subject to restrictions to prevent ~~from situations in which~~ transmission ~~can be expected to occur,~~ in accordance with ~~Communicable Disease Control Measures~~ the Rules ~~under~~ at 10A NCAC 41A .0200. Any employee with boils, sores, burns, infected ~~wounds~~ wounds, or other ~~potentially~~ draining lesions on exposed skin shall bandage the affected area to ~~eliminate~~ avoid ~~exposure~~ exposing others to drainage. If such bandaging obstructs handwashing as set out in Rule .2803 of this Section, ~~or~~ if the exposure to drainage cannot be ~~eliminated,~~ prevented, or if otherwise required under the Rules at 10A NCAC 41A .0200, then the employee shall be excluded from food preparation and ~~caregiving~~ work activities that involve contact with other employees or children while risk of transmission of the communicable disease or ~~the~~ condition exists.

Authority G.S. 110-91.

15A NCAC 18A .2829 WASTEWATER

In child care centers, all wastewater originating from the child care center shall be disposed of ~~in~~ using a ~~publicly-owned~~ publicly-operated sewage ~~wastewater~~ treatment system or ~~by~~ an ~~approved properly operating on-site wastewater~~ individual sewage disposal system that meets the requirements of ~~under 15A NCAC 18A .1900~~. the rules at Section .1900 of this Subchapter. Septic systems shall be ~~sized~~ of adequate size to accommodate the wastewater needs of the anticipated number of children and staff for all shifts.

Authority G.S. 110-91.

15A NCAC 18A .2830 SOLID WASTES

(a) In child care centers, food scraps and other putrescible materials shall be placed in a plastic-lined, cleanable, covered container and removed to an exterior garbage area ~~at least~~ daily. Scrap paper, cardboard ~~boxes~~ boxes, and ~~similar~~ other recyclable items shall be stored in containers or designated recycling areas.

(b) ~~Garbage~~ Solid waste containers, ~~mops~~ mops, and other cleaning equipment shall be kept ~~clean.~~ clean when not in use. Facilities shall be provided at the child care center for the washing and storage of ~~garbage~~ solid waste containers and mops, ~~mops for child care centers,~~ except that such facilities shall not be required for child care centers licensed for fewer than 13 children and located in a residence. ~~Cleaning facilities~~ Washing facilities required under this Paragraph shall include a faucet with a threaded nozzle ~~and~~ that delivers water of at least ~~80°F (27°C)~~ 80 degrees Fahrenheit. The faucet shall be located in either a designated utility sink or above a curbed impervious pad that is sloped to drain into a ~~publicly-owned wastewater treatment~~ system that meets the requirements of Rule .2829 of this Section. ~~or by an approved properly operating on-site wastewater system in accordance with 15A NCAC 18A .1900. Can cleaning~~ Washing facilities used for solid waste containers that were installed at the child care center ~~approved~~ prior to July 1, 1991 shall be ~~approved~~ permitted to be used if the facilities are in good repair.

(c) Dumpsters and other containerized systems shall be kept clean and covered. ~~Facilities shall be provided for cleaning either on-site, or off-site through a contractual agreement.~~

(d) Solid wastes shall be disposed of to prevent ~~insect breeding~~ conditions that attract and harbor pests and other public health nuisances.

Authority G.S. 110-91.

15A NCAC 18A .2831 ANIMAL AND VERMIN CONTROL

(a) ~~Unrestrained animals,~~ Animals that are not contained in a cage or restrained on a leash, except those used in supervised activities or pet therapy programs, shall not be allowed in a child care center, including the outdoor learning environment. When animals are on the child care center premises, copies of each animal's vaccination records ~~required by North Carolina law and local ordinances~~ shall be available for ~~review.~~ review upon request during a sanitation inspection of the child care center. Any animals kept at the child care center as pets shall be examined by a veterinarian to determine that they are free from pests ~~vermin, such as mites, lice, fleas, and ticks,~~ and pathogens that could adversely affect human health. Turtles, iguanas, frogs, salamanders, and other reptiles or amphibians ~~are~~ shall not ~~allowed to~~ be kept as pets on the child care center premises. Animals shall not be allowed in or kept at the entrances to food preparation areas. Animal cages shall be kept clean and animal waste materials shall be bagged, sealed, and immediately disposed of in the child care center's exterior garbage area in a covered container. Animals belonging to child care center owners, employees, volunteers, visitors, and children shall not be allowed in child care centers or on the premises unless the ~~above~~ requirements set forth in this Paragraph are met.

(b) Pests shall be excluded from the child care center. ~~Effective measures shall be taken to keep uncontained insects, rodents, and other vermin out of the child care centers and to prevent their breeding or presence on the premises.~~ Traps set for pests shall only be placed in areas that are inaccessible to children.

(c) All openings to the area outside of the child care center ~~outer air~~ shall be protected against the entrance of flying pests. ~~insects.~~ In food preparation areas, only fly traps, pyrethrin-based ~~insecticides~~ insecticides, or a fly swatter shall be used for extermination of flying pests. ~~insects.~~ Products shall be used only in accordance with directions and cautions appearing on their labels. Insecticides shall not come in contact with raw or cooked food, utensils, or equipment used in food preparation and serving, or with any other food-contact surface.

(d) Only those pesticides which have been registered in accordance with ~~the U.S. Environmental Protection Agency~~ 40 C.F.R. 152 and ~~the North Carolina Department of Agriculture and Consumer Services~~ G.S. 143-442 shall be ~~used.~~ used to control pests at a child care center. Pesticides shall be used in accordance with the directions on the label and shall be stored in a locked storage room or cabinet separate from foods and medications. Pesticides shall not be applied or used when children are present in the area.

(e) Decks, fences, playground equipment, and other products constructed or installed after September 1, 2006 shall not be made from chromated copper arsenate (CCA) pressure-treated wood

unless the use of CCA-treated wood is for an approved use listed on the CCA product label. ~~label and allowed under the US EPA Supplemental Guidance on Interpretation of Revised Chromated Copper Arsenate (CCA) Wood Preservative Label, as amended.~~

(f) In areas accessible to children, CCA-treated wood decks, playground and recreational equipment, and structures installed or constructed:

(1) prior to January 1, 2005; or

(2) where EPA allows the use of CCA-treated wood, shall be sealed using an oil-based, semi-transparent sealant; oil-based clear stain; or a water-based clear stain applied at least once every two years.

(g) At the time of the initial sealant or stain application and whenever more than two years has passed since the previous sealant application, soil under ~~such~~ CCA-treated wood shall be:

(1) removed and replaced with similar material;

(2) covered with at least four inches of soil, gravel, sand, sod, or other vegetation; or

(3) otherwise made ~~inaccessible.~~ inaccessible to children.

(h) Any composting areas shall be covered and maintained to prevent attracting pests. ~~rodents or vermin.~~ Worm bins shall be kept covered.

(i) Grass, fruit and vegetable gardens, vines on fences, and other vegetation shall be maintained to prevent the harboring and breeding of pests. ~~in a manner which does not encourage the harborage of vermin.~~

(j) Pets kept outdoors at a child care center shall be in a designated area that is maintained and separate from the outdoor area used by the children.

Authority G.S. 110-91.

15A NCAC 18A .2832 OUTDOOR LEARNING ENVIRONMENT AND PREMISES

(a) At child care centers, the premises, including the outdoor learning environment, shall be kept clean, drained to minimize standing water, free of litter and ~~hazardous materials,~~ hazards, and maintained in a manner which does not ~~encourage the harborage of vermin.~~ create conditions that attract or harbor pests. ~~All debris,~~ Debris, glass, dilapidated ~~structures~~ structures, and broken play equipment shall be removed. Wells, grease traps, ~~cisterns~~ cisterns, and utility equipment shall be made inaccessible to children.

(b) Sand toys, water ~~tables~~ tables, and other items that can collect standing water in the outdoor learning environment shall be emptied and stored to prevent the collection of standing water.

(c) For outdoor toys and play equipment, including all structures accessible to children, the following shall apply:

(1) Equipment and toys shall be kept clean, in good repair, and free of peeling, flaking, or chalking paint, ~~paint and free of rust~~ rust, and corrosion; and

(2) ~~The~~ A sandbox used in outdoor play shall be constructed to allow for drainage of water and shall be covered when not in use and kept clean.

(d) Children's outdoor activities shall be restricted as set forth in this Paragraph based on ~~If~~ a daily air quality forecast ~~is~~ made by the North Carolina Department of Environmental Quality, Division of Air Quality ~~or the regional air quality agency~~ for the county where a center is located and published on the Division of Air Quality's Air Quality Portal, which is hereby incorporated by reference, including any subsequent amendments or editions, and available free of charge at: https://airquality.climate.ncsu.edu/air-guide/aq-datasets/. ~~located, outdoor activity for children shall be restricted as follows.~~ On days with a code orange (unhealthy for sensitive groups) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than one hour. On days with a code red (unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. for more than 15 minutes. On days with a code purple (very unhealthy) forecast, children shall not be outside participating in physical activity between noon and 8:00 p.m. Provisions shall be made to allow children with diagnosed asthma or with coughing or wheezing symptoms to participate in physical activity indoors on days with a code orange, red or purple air quality forecast.

(e) When food service is provided in the outdoor learning environment, food shall be protected, stored, ~~prepared~~ prepared, and served in accordance with ~~15A NCAC 18A~~ Rules .2806, .2807 and ~~.2808.~~ .2808 of this Section. Employees and children shall wash their hands in accordance with ~~15A NCAC 18A~~ Rule .2803 of this Section prior to food service in the outdoor learning environment and food service tables shall be cleaned or covered prior to use.

(f) When diapering and toileting facilities are provided in the outdoor learning environment, they shall be maintained in accordance with Rules ~~15A NCAC 18A~~ .2817 and .2819 of this Section and employees and children shall wash their hands in accordance with ~~15A NCAC 18A .2803.~~ Rule .2803 of this Section.

(g) Storage provided in the ~~outdoors~~ outdoor learning environment for children's toys shall be kept ~~clean.~~ clean and in good repair. Storage areas that are accessible to children shall be kept free of ~~hazardous~~ equipment that is not intended by the manufacturer to be used by children and shall meet the requirements of Rule .2820 of this Section. ~~and substances in accordance with 15A NCAC 18A .2820.~~ Storage areas shall meet requirements for lighting in accordance with ~~15A NCAC 18A~~ Rule .2826 of this Section. ~~by means of opening doors, windows, sky lights, battery operated light, flashlight or electric lighting.~~ Spare batteries shall be ~~available~~ kept on-site at the child care center for battery operated light fixtures ~~and flashlights.~~ used to light storage areas in accordance with this Paragraph.

(h) Outdoor water ~~activity~~ play centers shall be maintained in accordance with ~~15A NCAC 18A~~ Rule ~~.2822.~~ .2822 of this Section. ~~Flow-through water play systems shall be designed to minimize standing water. Employees and children shall wash hands in accordance with 15A NCAC 18A .2803 before and after water play.~~

(i) Central vacuums that exhaust to the outdoors and away from where children use the outdoor learning environment may be used in lieu of HEPA vacuum cleaners to meet the daily vacuuming requirements in Rule ~~.2824(c).~~ .2824(c) of this Section.

Authority G.S. 110-91.

15A NCAC 18A .2833 SWIMMING AND WADING POOLS

(a) At child care centers, swimming and wading pools shall be designed, constructed, ~~operated~~ operated, and maintained in accordance with the ~~Rules Governing Public Swimming Pools, 15A NCAC 18A .2500.~~ rules in Section .2500 of this Subchapter. ~~Copies of these Rules may be obtained from DENR, Division of Environmental Health, Environmental Health Services Section.~~

(b) Portable wading pools, natural bodies of water, and other unfiltered ~~unfiltered, nondisinfected containments of~~ water that is not potable shall not be utilized for children's recreation activities.

Authority G.S. 110-91.

15A NCAC 18A .2834 COMPLIANCE, INSPECTIONS AND REPORTS

(a) Upon receipt of a request from ~~When requested by~~ a child care center operator or the ~~Division of Child Development,~~ licensing agency, a sanitation inspection shall be conducted by the local health department that serves the county in which the child care center is located within 30 calendar days of receipt of the request. ~~days.~~

(b) Unannounced inspections of a child care ~~centers~~ center shall be made by the Department at least once each six-month period. ~~The evaluation shall be completed on the Sanitation Standards Evaluation Form for Child Care Centers provided by the Department. Other versions of the form, including electronic, are allowed but shall be duplicates of the Sanitation Standards Evaluation Form for Child Care Centers.~~ An original and two copies of the form used to document the inspection shall be completed by the Department. The original shall be submitted by the Department to the licensing agency ~~Division of Child Development. The~~ and the child care center operator and the Department shall each retain a copy.

(c) The Department shall inspect each child care program that has been designated as a child care center by the ~~Division of Child Development.~~ licensing agency. Demerits taken during the sanitation inspection shall be assigned for ~~each occurrence of~~ violations ~~within these requirements:~~ of the rules of this Section as follows:

(1) violation of Rules ~~.2803~~ .2803(a)-(d) or ~~.2836~~ .2836(15) of this Section related to handwashing when required shall be assessed five demerits;

(2) violation of Rule ~~.2803~~ .2803(e) of this Section related to proper handwashing procedures shall be assessed five demerits;

(3) violation of Rule .2804 of this Section related to food from approved sources, hazards, ~~no spoilage,~~ or adulteration shall be assessed six demerits;

(4) violation of Rules .2804, .2806, or .2807 of this Section related to potentially hazardous food ~~meeting~~ storage and holding requirements ~~temperatures;~~ and requirements regarding the refrigeration of bottles and lunches at ~~45° F~~ 45 degrees Fahrenheit or below shall be assessed six demerits;

(5) violation of Rules .2804, .2806, .2807, .2808, or .2836 of this Section related to food being properly stored, thawed, prepared, cooked, cooled, handled, served, transported, packaged, and identified, and only permitting supervised children in the kitchen shall be assessed five demerits;

(6) violation of Rule ~~.2808~~ .2808(c) of this Section related to food not re-served shall be assessed three demerits;

(7) violation of Rule .2806 or .2807 of this Section related to the use of food thermometers ~~provided~~ and food thermometer accuracy ~~accurate~~ shall be assessed two demerits;

(8) violation of Rules .2809 or .2810 of this Section related to food service equipment and utensils and ~~meeting~~ specifications for refrigeration, sinks, ~~lavatories~~ lavatories, and dishwashing equipment shall be assessed six demerits;

(9) violation of Rules .2806, .2809, ~~.2809~~ or .2810 of this Section related to food service equipment and utensils and ~~meeting~~ specifications for other equipment and utensils, approved ~~material~~ material, and construction shall be assessed four demerits;

(10) violation of Rules .2809 or .2812 of this Section related to food contact surfaces being properly washed, rinsed, ~~sanitized~~ sanitized, and air dried ~~dried;~~ and single-service articles not being re-used shall be assessed five demerits;

(11) violation of Rule .2812 of this Section related to sanitizer being provided and a test kit being available shall be assessed two demerits;

(12) violation of Rule .2809, .2810, or .2812 of this Section related to keeping equipment and non-food contact surfaces clean and in good repair shall be assessed four demerits;

(13) violation of Rule .2814 of this Section related to proper storage and handling of clean equipment, utensils, and single-service articles shall be assessed three demerits;

(14) violation of Rule .2815 of this Section related to water supply and drinking water facilities ~~meets 15A NCAC 18A .1700 or 15A NCAC 18C, whichever is applicable,~~ and documentation that water supplies and facilities satisfy the applicable regulatory requirements ~~provided~~ shall be assessed six demerits;

(15) violation of Rule .2815 of this Section related to hot water supplied and maintained in the kitchen shall be assessed six demerits;

(16) violation of Rule .2815 of this Section related to hot water supplied and tempered water maintained as required in all other areas shall be assessed four demerits;

(17) violation of Rule ~~.2815~~ .2815(e) of this Section related to hot water in excess of ~~120° F~~ 120 degrees Fahrenheit not allowed in areas

accessible to children shall be assessed six demerits;

(18) violation of Rule ~~.2815~~ .2815(c) of this Section related to backflow prevention ~~provided, no~~ and cross connections shall be assessed three demerits;

(19) violation of Rules ~~.2815~~ .2815(c) or .2836 of this Section related to drinking fountain construction and location, ~~fountains of approved type,~~ water pressure regulation, ~~regulated,~~ and drinking fountains being kept clean shall be assessed two demerits;

(20) violation of Rule .2816 of this Section related to identified lead poisoning hazards ~~as defined under G.S. 130A-131.7(7)~~ shall be assessed six demerits;

(21) violation of Rules .2817, ~~.2818~~ .2818, or .2836 of this Section related to toilet and lavatory facilities being properly sized, ~~located~~ located, ~~and~~ accessible, and in good ~~repair;~~ repair, and sinks, ~~toilets~~ toilets, and potty chairs being cleaned and disinfected shall be assessed four demerits;

(22) violation of Rules .2817 or .2818 of this Section related to the provision of soap, disposable towels, ~~approved~~ hand drying devices, and toilet tissue paper ~~available~~ shall be assessed three demerits;

(23) violation of Rules .2817 or .2818 of this Section related to ~~approved~~ storage in toilet rooms, lavatories being kept free of ~~storage;~~ storage, and handwash signs being posted shall be assessed two demerits;

(24) violation of Rules .2817, ~~.2819~~ .2819, or .2836 of this Section related to ~~approved~~ diaper changing facilities shall be assessed six demerits;

(25) violation of Rule .2819 of this Section related to diapering surfaces being cleaned and disinfected after each use shall be assessed six demerits;

(26) violation of Rule .2819 of this Section related to cleaning and disinfecting solutions being provided and a test kit being available when required shall be assessed two demerits;

(27) violation of Rules .2818, ~~.2819~~ .2819, or .2820 of this Section related to diaper changing facilities being kept free of storage and in good ~~repair;~~ repair, ~~cleaning and disinfecting~~ detergent solutions and approved disinfectants being labeled, ~~labeled; approved~~ required diapering methods being used, ~~used;~~ and diaper changing and handwash signs being posted shall be assessed four demerits;

(28) violation of Rule ~~.2820~~ .2820(d) and (g) of this Section related to medications being properly stored shall be assessed six demerits;

(29) violation of Rule ~~.2820~~ .2820(b) and (e) of this Section related to hazardous products being properly stored and locked shall be assessed six demerits;

(30) violation of Rule ~~.2820~~ .2820(c) of this Section related to non-hazardous products being properly stored shall be assessed three demerits;

(31) violation of Rule .2820 of this Section related to facilities being provided for proper storage, storage being used in accordance with the Rule, and storage being kept clean shall be assessed two demerits;

(32) violation of Rules .2821 or .2836 of this Section related to individual linen ~~provided;~~ and adequate beds, cots, or mats being provided, kept in good repair, properly stored, labeled, and spaced during use shall be assessed three demerits;

(33) violation of Rule .2821 of this Section related to linen, ~~bedding,~~ wash cloths, ~~bibs~~ bibs, and burping cloths being laundered and kept in good repair shall be assessed three demerits;

(34) violation of Rules .2822 or .2836 of this Section related to toys, ~~equipment~~ equipment, and furniture being kept clean and in good ~~repair;~~ repair and the cleaning, sanitization, and maintenance of water play centers ~~cleaned, sanitized and maintained~~ shall be assessed four demerits;

(35) violation of Rules .2822 or .2836 of this Section related to mouth-contact surfaces being cleaned and sanitized in rooms where children who are not toilet trained are cared for shall be assessed four demerits;

(36) violation of Rules .2807 ~~.2808~~ or .2823 of this Section related ~~to personnel using approved hygienic practices,~~ child care center employees wearing gloves, clean ~~clothes~~ clothes, and hair restraints where required, and ~~evidence of~~ tobacco use ~~in the outdoor learning environment or in any part of a child care center without a separate ventilation system~~ shall be assessed two demerits;

(37) violation of Rules .2824, ~~.2825~~ .2825, or .2836 of this Section related to floors, walls and ceilings ~~easily cleanable,~~ being kept clean and in good ~~repair, clean,~~ repair and the vacuuming and extraction cleaning of carpets ~~vacuumed and extraction cleaned as required~~ shall be assessed four demerits;

(38) violation of Rule .2826 of this Section related to the lighting and thermal environment and room temperature being kept between ~~65° F~~ 65 degrees Fahrenheit and ~~85° F~~ 85 degrees Fahrenehit shall be assessed three demerits;

(39) violation of Rule .2826 of this Section related to equipment being kept clean and in good repair and being maintained as required shall be assessed two demerits;

(40) violation of Rule ~~.2827~~ .2827(e) of this Section related to persons with a communicable disease

or a condition ~~excluded in accordance with 15A NCAC 19A .0200~~ shall be assessed six demerits;

(41) violation of Rules .2827 or .2836 of this Section related to persons caring for mildly sick children or ~~mildly~~ ill children being excluded from situations in which transmission of communicable disease can be expected to occur and proper cleanup procedures being followed for vomiting or diarrheal events shall be assessed four demerits;

(42) violation of Rule .2827 of this Section related to the designated area for sick children maintained as required and written procedures for responding to vomiting or diarrheal events shall be assessed two demerits;

(43) violation of Rule .2829 of this Section related to ~~wastewater~~ sewage disposal ~~disposed of by approved methods in accordance with 15A NCAC 18A .1900~~ shall be assessed six demerits;

(44) violation of Rules .2830 or .2836 of this Section related to solid waste being properly ~~handled;~~ handled, solid waste containers and cleaning equipment kept clean, and the provision of adequate solid waste can washing ~~cleaning~~ facilities ~~adequate~~ shall be assessed two demerits;

(45) violation of Rule .2831 of this Section related to ~~approved~~ pesticides being properly used and new ~~Chromated Copper Arsenate (CCA)~~ CCA pressure-treated wood shall be assessed six demerits;

(46) violation of Rule .2831 of this Section related to ~~Chromated Copper Arsenate~~ CCA pressure-treated wood being sealed and soil being covered or made inaccessible as required shall be assessed two demerits;

(47) violation of Rule .2831 of this Section related to animals in food preparation areas and restrictions on ~~no~~ unrestrained or prohibited animals ~~except as noted~~ shall be assessed three demerits;

(48) violation of Rules .2831 or .2832 of this Section related to ~~effective~~ pest control ~~of rodents, insects~~ and the child care center ~~other vermin;~~ premises being free of conditions that harbor or attract pests ~~vermin harborage and breeding areas~~ shall be assessed three demerits;

(49) violation of Rule .2832 of this Section related to premises being kept clean and drained, wells, grease traps, cisterns, and other utility equipment being kept inaccessible to children, equipment and toys being kept clean and in good repair, sandboxes being properly constructed and kept clean, and adherence to air quality forecast outdoor activity restrictions shall be assessed two demerits; and

(50) violation of Rule .2833 of this Section related to swimming and wading pools being designed, constructed, ~~operated~~ operated, and maintained in accordance with the rules at Section ~~15A NCAC 18A~~ .2500 of this Subchapter shall be assessed six demerits.

(d) The Department shall indicate on the ~~Child Care Inspection Sanitation Form~~ sanitation inspection form whether the child care center is classified as ~~superior, approved, provisional,~~ "superior," "approved," "provisional," or ~~disapproved.~~ " disapproved" based on the sanitation inspection and the resulting score based on demerits taken in accordance with Paragraph (e) of this Rule. A ~~Sanitation Classification~~ sanitation classification placard that lists the child care center's score and classification shall be posted in the child care center in a location ~~conspicuous place~~ designated by the ~~Department.~~ Department and where the placard can be seen by the public upon entry to the child care center. ~~The classification of a child care center is based on the center's compliance with the Rules of this Section.~~ A summary classification of ~~disapproved~~ "disapproved" shall be issued by the Department and forwarded to the ~~Division of Child Development~~ licensing agency when the Department's right-of-entry to inspect the child care center is denied or when an inspection is discontinued at the request of the operator or child care center administrator, ~~administrator~~ unless the decision to discontinue the inspection is ~~mutual.~~ mutually made by the child care center operator or administrator and the Department. A summary classification of ~~disapproved~~ "disapproved" shall also be issued by the Department and forwarded to the ~~Division of Child Development~~ licensing agency when a water sample that is collected pursuant to Rule .2815 of this Section is confirmed positive for fecal coliform, total ~~coliform~~ coliform, or other chemical constituents in accordance with Rule .1725 of this Subchapter. ~~15A NCAC 18A .1725.~~

(e) ~~The~~ A child care center's level of compliance with the Rules of this Section is indicated by the number of demerits listed on the ~~Child Care Sanitation Inspection Form.~~ sanitation inspection form and the following shall apply for a child care center's classification:

(1) When an inspection is requested and conducted for the purpose of issuing a license to a new operator, a ~~Child Care Sanitation Inspection Form~~ completed sanitation inspection shall be forwarded by the Department to the ~~Division of Child Development~~ licensing agency only when the child care center can ~~be~~ is granted a ~~superior~~ "superior" classification.

(2) If the child care center is not yet ~~open~~ in operation and children are not in attendance when the initial sanitation inspection is conducted, a sanitation inspection form ~~Child Care Sanitation Inspection Form~~ shall be completed by the Department and forwarded to the ~~Division of Child Development,~~ licensing agency but the ~~Sanitation Classification~~ placard listing the child care center's sanitation classification shall not be ~~posted.~~ posted in the child care center. Another sanitation inspection shall be conducted by the Department when children are in attendance at the child care

center and within 30 days of the child care center opening. The placard listing the sanitation classification earned by the child care center during the most recent inspection shall be posted following this second sanitation inspection and in accordance with Paragraph (d) of this Rule. ~~opening and the Sanitation Classification placard shall then be posted.~~ When a temporary license is issued by the licensing agency to a child care center as a result of a change of ownership in a child care center ~~that~~ and the child care center continues to operate, the operator shall request an inspection from the Department within ~~fourteen~~ 14 days of the issuance of the temporary license. ~~days. A~~ After the sanitation inspection is completed, a placard listing the child care center's sanitation classification ~~placard~~ shall be posted. ~~posted after each inspection of a center operating under a temporary license.~~

~~(2)~~(3) A child care center shall be classified as ~~superior~~ "superior" if the demerit score does not exceed 15 and no 6-point demerit item is violated.

~~(3)~~(4) A child care center shall be classified as ~~approved~~ "approved" if the demerit score is more than 15 and does not exceed 30, and no 6-point demerit item is violated.

~~(4)~~(5) A child care center shall be classified as ~~provisional~~ "provisional" if any 6-point demerit item is violated or if the total demerit score is more than 30 but does not exceed 45. The provisional classification period shall not exceed seven days unless construction or renovation is necessary to correct any violation, in which case the Department may specify a longer provisional classification period. At the end of the provisional classification period, a follow-up inspection shall be conducted by the Department and a new demerit score and classification shall be issued.

~~(5)~~(6) A child care center shall be classified as ~~disapproved~~ "disapproved" if the demerit score is more than 45, or if conditions and violations which resulted in a ~~provisional~~ "provisional" classification have not been corrected in the time period specified by the ~~Department.~~ Department in accordance with Subparagraph (e)(5) of this Rule.

~~(6)~~(7) If the child care center receives a ~~disapproved~~ "disapproved" classification, the Department shall immediately notify the ~~Division of Child Development~~ licensing agency of the classification. ~~by faxing a copy of the inspection form.~~

~~(7)~~(8) The ~~Sanitation Classification~~ placard listing the child care center's sanitation classification shall not be removed from the location designated by the Department under Paragraph (d) of this Rule except by or upon the instruction of the Department.

~~(f) If the Department determines that conditions found at the child care center at the time of any inspection or visit are dangerous to the health of the children, the Department shall immediately notify the Division of Child Development by verbal contact. The original inspection report or other documentation of the dangerous conditions shall be sent to the Division of Child Development within two working days following the inspection.~~

~~(g)~~(f) The Department may conduct an additional inspection of any child care center that is issued a "provisional," "disapproved," or summary "disapproved" classification or upon receipt of a complaint about the sanitation of a child care facility that is made to the Department ~~as frequently as necessary in order~~ to ensure compliance with the Rules in this Section.

~~(h)~~(g) The Department shall ~~use the Child Care Sanitation Inspection Form to~~ document demerits for violations of the ~~rules.~~ rules of this Section on an inspection form and ~~A~~ a written explanation and corrective action for each violation shall be documented on a comment addendum to the form.

~~(i)~~(h) ~~In filling out the inspection form, demerits~~ Demerits may be assessed only once for a single occurrence or condition existing within or outside the child care center. Demerits shall be assessed based on actual violations of the Rules of this Section observed during the inspection.

Authority G.S. 110-88; 110-91.

15A NCAC 18A .2835 APPEALS PROCEDURE

Appeals concerning the enforcement of the Child Care Sanitation Rules in this Section as adopted by the Commission for Public Health shall be governed by ~~Section~~ G.S. 110-94 and G.S. 150B. ~~Chapter 150B of the North Carolina General Statutes.~~

Authority G.S. 110-91.

15A NCAC 18A .2836 MILDLY SICK ~~ILL~~ CHILDREN

Child care centers that are licensed by the licensing agency to offer care to mildly sick children pursuant to 10A NCAC 09 ~~.2400,~~ .2404 shall comply with all rules in this Section except as follows:

(1) Prior to operating ~~starting~~ a program for mildly sick ~~ill~~ children, the child care center operator shall undergo ~~request an~~ a sanitation inspection of the child care center by ~~from~~ the Department. ~~local health department.~~

(2) Drinking fountains shall not be used ~~used.~~ by mildly sick children.

(3) Toilet fixtures, potty chairs, utility sinks, ~~tubs~~ tubs, and showers shall be cleaned and disinfected after each use.

(4) Lavatories shall be of a hands-free design or equipped with single-lever faucets.

(5) Cloth diapers shall not be used.

(6) Individually labeled moist towelette containers shall be provided for each child in diapers.

(7) Caregivers shall wear clean disposable gloves when changing each diaper.

(8) Moist towelettes shall not be used in lieu of handwashing for children who cannot support their heads.

(9) A 36-inch separation shall be maintained or partitions shall be placed between beds, cots and mats to minimize contact among children.

(10) Furniture shall be nonabsorbent.

(11) Thermometers and mouthable toys shall be cleaned and sanitized between uses by different children. Soft, cloth material toys may be brought from home if labeled with the name of the child to whom the toy belongs and used only by that ~~for use by an individual~~ child. If soft toys are provided by the child care center, they shall be sanitized between uses by different children.

(12) ~~Caregivers~~ Employees caring for mildly sick ~~ill~~ children shall not prepare food in a ~~the~~ kitchen used to prepare food for one or more children who are not mildly sick or serve food to children who are not mildly sick. ~~well children.~~

(13) Family style and other self-serve food service is prohibited.

(14) Carpeted floors are prohibited. Throw rugs may be used if laundered when contaminated and at least weekly. Floors contaminated by body fluids shall be cleaned and disinfected immediately.

(15) Caregivers shall wash hands in accordance with the procedures in Rule .2803(c) before leaving the area designated for mildly sick ~~ill~~ children.

(16) All waste shall be disposed of in a plastic-lined, covered receptacle.

Authority G.S. 110-91.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Board of Cosmetic Art Examiners intends to adopt the rule cited as 21 NCAC 14P .0117, amend the rules cited as 21 NCAC 14A .0101; 14H .0201, .0203, .0401-.0403, .0501, .0503, .0504; 14P .0105, .0106, .0108, .0111, .0113, .0116; 14T .0101, .0102, .0201, .0301-.0305, .0502, .0601-.0617, .0701, .0702, .0706, .0802, .0803, and repeal the rules cited as 21 NCAC 14H .0505; and 14T .0202.*

Link to agency website pursuant to G.S. 150B-19.1(c): *www.nccosmeticarts.com/uploads/board/PRNovember2022.pdf*

Proposed Effective Date: *April 1, 2023*

Public Hearing:
Date: *December 16, 2022*
Time: *9:30 a.m.*
Location:*https://teams.microsoft.com/l/meetup-join/19%3ameeting_ZTI5NzQzMmItOTVjNy00YzU5LThmZGMtZTExYjA0NzJlZmE2%40thread.v2/0?context=%7b%22Tid%22%3a%22787b7dd2-dc22-468e-824e-38787f4341d*

Reason for Proposed Action: *These rule changes address adding definitions for terms used in cosmetic art schools and shops as well as updates regarding infection control requirements. Additionally there is a repeal of a rule and an adoption of the same rule to relocate the penalties all in one section for ease of reading and accessing the subchapter.*

Comments may be submitted to: *Stefanie Kuzdrall, 121 Edinburgh South Drive Suite 209, Cary, NC 27511; phone (919) 736-6123; email skuzdrall@nccosmeticarts.com*

Comment period ends: *January 30, 2023*

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 984-236-1850.

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**

SUBCHAPTER 14A – DEPARTMENTAL RULES

SECTION .0100 – ORGANIZATION RULES

21 NCAC 14A .0101 DEFINITIONS

In addition to the definitions set forth in G.S. 88B-2, the following definitions apply in this Chapter:

(1) "Beauty Establishment" refers to both cosmetic art schools and cosmetic art shops.

(2) "Clean" is the removal of visible and surface debris, washing with soap and water, detergent or chemical cleaner that prepares non-porous items for disinfection and reduces the number and slows the growth of pathogens on both

porous and non-porous surfaces. Cleaning does not make multi-use items safe for use.

(3) "Contact time" is the amount of moist contact time required for a disinfectant to be effective against the pathogens on the manufacturers label. Clean items or surfaces must remain immersed, or visibly wet if using sprays or wipes, for full contact time to be effective.

(4) "Cosmetology School" is any cosmetic art school that teaches cosmetic art as defined by G.S. 88B-2(5), but is not solely a manicurist or an esthetics school.

(5) "Cosmetology Student" is a student in any cosmetic art school whose study is the full curriculum.

(6) "Disinfect" is the process of making a non-porous item safe for use that includes the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. UV light is not acceptable for disinfection.

(7) "Disinfectant" is an EPA registered bactericidal, virucidal and fungicidal disinfectant that is approved for use in beauty salon or salon settings, following instruction label for dilution ratio and contact time, or an EPA registered Sodium Hypochlorite 5.25 percent or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the contact time listed on the manufacturers label. Bleach must be active (not expired) with a manufacture date of less than 6 months prior to use.

(8) "Esthetician School" is any cosmetic art school that teaches only the cosmetic art of skin care.

(9) "Esthetician Student" is a student in any cosmetic art school whose study is limited to the esthetician curriculum set forth in 21 NCAC 14T .0604.

(10) "Licensing cycle" shall be as follows:

(a) for cosmetologists, the licensing cycle is a three-year period beginning on the first day of October and ending on the third following first day of October and continuing thereafter in three year intervals;

(b) for estheticians, natural hair care specialists and manicurists, the licensing cycle is one year in length beginning on the first day of October and ending on the next first day of October;

(c) for teachers, the licensing cycle is a two-year period beginning on the first day of October of an even-numbered year and ending on the next first day of October of the next even-numbered year.

(11) "Manicurist School" is a cosmetic art school that teaches only the cosmetic art of manicuring.

(12) "Manicurist Student" is a student in any cosmetic art school whose study is limited to the manicurist curriculum set forth in 21 NCAC 14T .0605.

(13) "Non-porous" is a material that has no pores and does not allow for liquids to be absorbed or pass through. Common non-porous materials include glass, metal, and plastic.

(14) "Porous" is a material that has minute spaces or holes through which liquid or air may pass such as paper, foam, and wood. Porous may also be called permeable, penetrable, or cellular.

(15) "Renewal period" for individual licensees is a three-month period beginning on the first day of July and ending on the first day of October of a renewal year. The "renewal period" for salon licensees is a two-month period beginning on the first day of December and ending on the first day of February of a renewal year.

(16) "Sterilize" is the eradication of all microbial life through the use of heat, steam, or chemical sterilants. Autoclaves and or dry heat sterilizers used to sterilize must be spore tested through an independent lab every 30 days. Autoclaves or dry heat sterilizers used to sterilize must be FDA approved and used only as instructed by the manufacturer. Spore testing results and maintenance records must be kept onsite for 12 months.

(17) "Successful Completion" is the completion of an approved cosmetic art curriculum with a minimum grade of "C" or 70 percent, whichever is deemed as passing by the cosmetic art school.

(18) "Rasp" is a coarse file or metal tool with a roughened surface. A tool with a blade designed to cut or slice is not a rasp.

(19) "Natural Hair Care School" is a cosmetic art school that teaches only the cosmetic art of natural hair care.

(20) "Natural Hair Care Student" is a student in any cosmetic art school whose study is limited to the natural hair care curriculum set forth in 21 NCAC 14T .0606.

Authority G.S. 88B-2; 88B-4.

SUBCHAPTER 14H - SANITATION

SECTION .0200 - SHOP LICENSING AND PHYSICAL DIMENSIONS

21 NCAC 14H .0201 APPLICATION FOR SHOP LICENSE

(a) Rules in this Subchapter apply to all cosmetic art shops making initial application to operate a cosmetic art shop after the effective date of these Rules.

(b) Shops licensed prior to March 1, 2012 may choose to comply with Rules .0202, .0203(c), .0204 and .0301 of this Subchapter.

(c) Shops licensed prior to March 1, 2012 must comply with Rules .0201, .0203(a)-(b), .0302-.0304 and Sections .0400 and .0500 of this Subchapter.

(d) Shops licensed prior to March 1, 2012 that make any structural changes must come into compliance with all rules in this Subchapter.

(e) Persons desiring to open a cosmetic art shop in the State of North Carolina shall make application to the North Carolina State Board of Cosmetic Art Examiner on the Board's application form. Persons desiring to change ownership of a cosmetic art shop, relocate or reopen a shop ~~which has been closed more than 90 days~~ shall make application to the North Carolina State Board of Cosmetic Art Examiner on the Board's application form.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-22.

21 NCAC 14H .0203 NEWLY ESTABLISHED SHOPS

(a) ~~A~~ All cosmetic art ~~shop~~ shops shall be separate and apart from any building or room used for any other business or purpose, separated by a solid wall of at least seven feet in height and must have a separate outside entrance.

(b) A newly established cosmetic art shop, shall be separate and apart from any building or room used for living, dining or sleeping and shall be separate and apart from any other room used for any other purpose by a solid wall of ceiling height, making separate and apart rooms used for a cosmetic art shop. All entrances to the cosmetic art shop shall be through solid, full length doors installed in solid walls of ceiling height.

(c) A residential cosmetic art shop shall furnish bathroom facilities separate and apart from the residence.

(d) An entrance to a cosmetic art shop from a passageway, walkway or mall area used only for access to the shop, or to the shop and other businesses, may be open.

Authority G.S. 88B-2; 88B-4; 88B-14.

SECTION .0400 - INFECTION CONTROL PROCEDURES AND PRACTICES

21 NCAC 14H .0401 LICENSEES AND STUDENTS

(a) For purposes of this Section, sanitation, as described in G.S. 88B, is defined as "infection control."

(b) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to licensees and students in practice in cosmetic art schools and shops.

(c) Each licensee and student shall wash his or her hands with soap and water immediately after using the restroom. Each licensee and student shall wash his or her hands with soap and water or use of a 62 percent to 70 percent alcohol-based hand sanitizer immediately before and after serving each ~~client.~~ client and at any point that the student or licensees hands become contaminated.

(d) Each licensee and student shall wear clean garments and shoes while serving patrons.

(e) Licensees or students shall not use or possess in a cosmetic art school or shop any of the following:

(1) Methyl Methacrylate Liquid Monomer, a.k.a. MMA;

(2) razor-type callus ~~shavers~~ shavers, hollow needles, or ~~blades~~ blades; ~~designed and intended to cut skin and skin growths of skin including skin tags, corns, and calluses;~~

~~(3) FDA rated Class III or greater devices;~~

~~(4)~~(3) carbolic acid (phenol) over two percent strength;

~~(5)~~(4) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform any service; or

~~(6)~~ a variable speed electrical nail file unless it has been designed for use on a natural nail.

(f) A licensee or student shall not:

(1) use any product, implement, or piece of equipment in any manner other than the product's, implement's, or equipment's intended use as described or detailed by the manufacturer;

(2) treat any medical condition unless referred by a physician;

(3) provide any service unless it falls within the license definition listed in G.S. 88B-2 and unless trained prior to performing the service;

(4) perform services on a client if the licensee has reason to believe the client has any of the following:

(A) fungus, lice, or nits;

(B) an inflamed, infected, broken, raised, or swollen skin or nail tissue in the area to be worked on; or

(C) an open wound or sore in the area to be worked on;

(5) alter or duplicate a license issued by the Board;

(6) advertise or solicit clients in any form of communication in a manner that is false or ~~misleading;~~ misleading. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation is set forth in 21 NCAC 14P .0108;

(7) ~~use any FDA rated Class II device without the documented supervision of a licensed physician;~~ cut or remove growths of skin including freckles, moles, warts, skin tags, corns, and calluses;

(8) use any product or device that will penetrate the dermis;

(9) make any statement to a member of the public, either verbally or in writing, stating or implying any action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or

attempting to practice by fraudulent misrepresentation is set forth in 21 NCAC 14P .0108;

(10) Make any statement to a member of the public either verbally or in writing, stating or implying the licensee or student has completed training, licensure or certification that the licensee/student does not hold or has not completed or not recognized by the Board or NC General Statutes. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation as set forth in 21 NCAC 14P .0108;

~~(10)~~(11) use or possess any product banned by the FDA. A list of banned products is available at www.fda.gov; or

~~(11)~~(12) use or possess any machine for a cosmetic art service that is not classified by the FDA. Machines that do not require classification by the FDA are exempt from this regulation.

(g) In using a disinfectant, the user shall wear any personal protective equipment, such as gloves, recommended by the manufacturer in the Safety Data Sheet.

(h) Licensees may only perform services specifically designated within their licensure field as defined by G.S. 88B-2.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24.

21 NCAC 14H .0402 COSMETIC ART SHOPS AND SCHOOLS

(a) Notwithstanding Rule .0201 in this Subchapter, this Rule applies to all cosmetic art schools and shops. A cosmetic art school or shop shall be kept clean.

(b) Waste material shall be kept in receptacles with a disposable liner. The area surrounding the waste receptacles shall be maintained in a sanitary manner.

(c) All doors and windows shall be kept clean.

(d) Furniture, equipment, floors, walls, ceilings and fixtures must be clean and in good repair.

(e) Work surfaces used for resting dirty implements during service performances must be disinfected before and after each service or be protected by a discardable or disinfectable barrier. Any barrier used for this purpose must be discarded, disinfected or laundered before and after each service.

~~(e)~~(f) Animals or birds shall not be in a cosmetic art shop or school. Fish in an enclosure and animals trained for the purpose of accompanying disabled persons are exempt from the prohibition in this Paragraph.

~~(f)~~(g) Cosmetic art shops and schools shall display the name of the shop or school and the suite number at ~~designate~~ the entrance by a sign or lettering.

~~(g)~~(h) The owner of a cosmetic art shop or school shall not post any sign that states or implies that some action is required or forbidden by Board rules when such action is not required or forbidden by Board rules. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-24.

21 NCAC 14H .0403 DISINFECTION PROCEDURES

(a) Disinfectant, as applicable in this Subchapter, is defined as a disinfectant that is EPA registered as effective against:

(1) bacteria including Staphylococcus aureus, MRSA and pseudomonas aeruginosa;

(2) viruses including HIV, Hepatitis B and C;

(3) fungi including Trichophyton mentagrophytes; and

(4) human coronavirus.

(b) Disinfectants that meet the requirements of Subparagraph (a)(1), (2), and (3) of this Rule may be used if they are listed on EPA list N as effective against pathogen SARS-CoV-2.

(c) Infection Control rules that apply to towels and cloths are as follows:

(1) clean protective capes, drapes, linens, and towels shall be used for each patron;

(2) after a protective cape has been in contact with a patron's neck it shall be placed in a clean, closed container until laundered with soap and hot water and dried in a heated dryer. Capes that cannot be laundered and dried in a heater dryer may be disinfected in accordance with the manufacturer directions; and

(3) after a drape, linen, or towel has been in contact with a patron's skin it shall be placed in a clean, ~~covered~~ container until laundered with soap and hot water and dried in a heated dryer. ~~A covered container may have an opening so soiled items may be dropped into the container.~~

(d) Any paper or nonwoven protective drape or covering shall be discarded after one use.

(e) There shall be a supply of clean protective drapes, linens and towels at all times. Wet towels used in services must be prepared fresh each day. Unused, prepared wet towels must be laundered daily.

(f) Clean drapes, capes, linens, towels and all other supplies shall be stored in a clean area.

(g) Bathroom facilities must be kept clean.

(h) All implements shall be cleaned and disinfected after each use in the following manner:

(1) They shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.

(2) They shall be disinfected with: ~~with either:~~

~~(A)~~ disinfectant that is mixed and used according to the manufacturer's directions. They shall be rinsed with hot tap water and dried with a clean towel before their next use. They shall be stored in a clean, closed cabinet or container until they are needed. ~~needed; or~~

~~(B) by UV-C, ultraviolet germicidal irradiation used in accordance with the manufacturer's directions~~.

(3) If the implement is shears, a razor, not immersible, ~~or is not disinfected by UV-C~~

~~irradiation,~~ it shall be cleaned by wiping it with a clean cloth moistened or sprayed with a disinfectant used in accordance with the manufacturer's directions.

(i) All disinfected non-electrical implements shall be stored in a clean, closed cabinet or clean, closed container.

(j) All disinfected electrical implements shall be stored in a clean area separate from other clean implements.

(k) Disposable and porous implements and supplies must be discarded after use or upon completion of the service.

(l) Product that comes into contact with the patron must be discarded upon completion of the service.

(m) Containers with open faces may be covered or closed with plastic wrapping. Disinfected implements must not be stored with any implement or item that has not been disinfected. Implements that have not been disinfected must be stored in a container and labeled as soiled.

(n) Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.

(o) All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin must be kept in clean, closed containers, and must conform in all respects to the requirements of the Federal Food, Drug, and Cosmetic Act as set forth in PL 75-717.52 accessible at www.fda.gov. Any product apportioned for use and removed from original containers must be distributed in a sanitary manner that prevents contamination of product or container. Any product dispensed in portions into another container must be dispensed into a clean container and applied to patrons by means of a disinfected or disposable implement or other clean methods. Any product dispensed in portions not dispensed into another container must be used immediately and applied to patrons by means of a disinfected or disposable implement or other clean methods. No product dispensed in portions may be returned to the original container.

(p) As used in this Rule whirlpool or footspa means any basin using circulating water.

(q) After use by each patron each whirlpool or footspa must be cleaned and disinfected as follows:

(1) all water must be drained and all debris removed from the basin;

(2) the basin must be disinfected by filling the basin with water and circulating a surfactant or enzymatic soap with a disinfectant used according to manufacturer's instructions through the unit for 10 minutes;

(3) the basin must be drained and rinsed with clean water; and

(4) the basin must be wiped dry with a clean towel.

(r) At the end of the day each whirlpool or footspa must be cleaned and disinfected as follows:

(1) the screen must be removed and all debris trapped behind the screen removed;

(2) the screen and the inlet must be washed with surfactant or enzymatic soap or detergent and rinsed with clean water;

(3) before replacing the screen it must be totally immersed in disinfectant in accordance to the manufacturer's instructions;

(4) the inlet and area behind the screen must be cleaned with a brush and surfactant soap and water to remove all visible debris and residue; and

(5) the spa system must be flushed with low sudsing surfactant or enzymatic soap and warm water for at least 10 minutes and then rinsed and drained.

(s) A record must be made of the date and time of each cleaning and disinfecting as required by this Rule including the date, time, reason, and name of the staff member who performed the cleaning. This record must be made for each whirlpool or footspa and must be kept and made available for at least 90 days upon request by either a patron or inspector.

(t) The water in a vaporizer machine must be emptied daily and the unit disinfected daily after emptying.

(u) The area where services are performed that come in contact with the patron's skin including treatment chairs, treatment tables, and beds shall be disinfected between patrons.

(v) A manufacturers label for all products, cleaners, and disinfectant concentrate must be available at all times. If a concentrate bottle is emptied, it must remain available until a new bottle is available.

(w) When mixed disinfectant concentrate is placed in a secondary container such as a spray bottle, tub or jar, that container must be labeled to indicate what chemical is in the container. SDS sheets must be available for all disinfectants in use at all times.

(x) Disinfectants must be stored and disposed of in accordance with all local, State, and federal requirements.

(y) The cabinet and supplies of a towel warmer machine must be emptied daily and the unit dried daily after emptying.

Authority G.S. 88B-2; 88B-4; 88B-14.

SECTION .0500 - ENFORCEMENT, MAINTENANCE OF LICENSURE

21 NCAC 14H .0501 INSPECTION OF COSMETIC ART SHOPS

(a) A newly established cosmetic art shop, ~~a shop which has been closed for more than 90 days,~~ or a shop which has changed ownership must file an application for licensure with the Board prior to opening. A newly established cosmetic art shop, ~~a shop which has been closed for more than 90 days,~~ a shop which has changed ownership or a shop which has been operating without a license shall be inspected before a license will be issued.

(b) Each cosmetic art shop must pass inspection by an agent of the Board pursuant to this Subchapter. Inspections shall be conducted annually and may be conducted without notice.

(c) Mobile cosmetic art shops and schools are prohibited.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-27.

21 NCAC 14H .0503 SANITARY RATINGS AND POSTING OF RATINGS

(a) The sanitary rating of a beauty establishment shall be based on a system of grading outlined in this Subchapter. Based on the grading, all establishments shall be rated in the following manner:

(1) all establishments receiving a rating of at least 90 percent or more shall be awarded a grade A;
(2) all establishments receiving a rating of at least 80 percent, and less than 90 percent, shall be awarded grade B;
(3) all establishments receiving a rating of at least 70 percent or more, and less than 80 percent shall be awarded grade C;
(4) any cosmetic art shop or school with a sanitation grade of ~~70 percent or~~ below 70 percent shall be awarded a failed inspection notice.

(b) Every beauty establishment shall be given a sanitary rating. A cosmetic art school shall be graded no less than three times a year, and a cosmetic art shop shall be graded once a year.

(c) The sanitary rating or failed inspection notice given to a beauty establishment shall be posted in plain sight near the front entryway at all times.

(d) All new establishments must receive a rating of at least 90 percent before a license will be issued.

(e) The operation of a cosmetic art shop or school which fails to receive a sanitary rating of at least 70 percent (grade C) shall be sufficient cause for revoking or suspending the license.

(f) A re-inspection for the purpose of raising the sanitary rating of a beauty establishment shall not be given within 30 days of the last inspection unless the rating at the last inspection was less than 80 percent.

~~(g) A whirlpool and footspa sanitation record must be kept on each whirlpool and footspa for inspection on a form provided by the Board.~~

~~(h)~~(g) All cosmetic art shops and schools with a failed inspection report shall be sufficient cause for the immediate suspension of licensure. All cosmetic art shops and schools with a failed inspection report must close until the sanitation conditions have improved to be awarded a passing grade.

~~(i) Mobile cosmetic art shops and schools are prohibited.~~

~~(j)~~(h) A copy of the itemized and graded inspection report must be provided to the operator at the time of the inspection.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-26; 88B-27.

21 NCAC 14H .0504 SYSTEMS OF GRADING BEAUTY ESTABLISHMENTS

The system of grading the sanitary rating of cosmetic art schools and shops based on the rules set out in this subchapter shall be as follows, setting out areas to be inspected and considered, and the maximum points given for compliance:

Sanitation	Point Value
Each licensee and student shall wash his or her hands with soap and water or hand sanitizer with the active ingredient of 70 percent alcohol or higher before and after serving each client.	2
Each licensee and student shall wear clean garments and shoes while serving patrons.	2
The cosmetic art facility shall be kept clean.	3
Waste material shall be kept in receptacles with a disposable liner.	4
All doors and windows shall be kept clean.	2
Furniture, equipment, floors, walls, ceilings and fixtures shall be clean and in good repair.	3
Clean protective capes, drapes, linens, and towels shall be used for each patron.	3
After a cape, drape, linen, or towel has been in contact with a patron's skin, it shall be placed in a clean, ~~closed~~ container until laundered with soap and hot water and dried in a heated dryer.	5
Any paper or nonwoven protective drape or covering shall be discarded after one use.	2
There shall be a supply of clean protective drapes, linens and towels at all times.	2
Clean drapes, capes, linens, and towels shall be stored in a clean area.	5
Bathroom facilities shall be kept clean.	3
All implements shall be washed with warm water and a cleaning solution and scrubbed to remove debris and dried.	2
All implements shall be disinfected per Rule .0403 of this Subchapter.	10
All disinfected electrical implements shall be stored in a clean area.	2
Disposable and porous implements and supplies shall be discarded after use or upon completion of the service.	10
Any product that comes into contact with the patron shall be discarded upon completion of the service.	3
Disinfected implements shall be kept in a clean closed cabinet or clean closed container and shall not be stored with any implement or item that has not been disinfected.	10
Lancets, disposable razors, and other sharp objects shall be disposed in puncture-resistant containers.	1
The presence of animals or birds shall be prohibited as set forth in Rule .0402 of this Subchapter. Fish in an enclosure and animals trained for the purpose of accompanying disabled persons are exempt.	1
All creams, lotions, wax, cosmetics, and other products dispensed to come in contact with patron's skin shall be kept in clean, closed containers and dispensed with a clean implement. No product dispensed in portions shall be returned to the container.	10
After each patron's use each whirlpool or footspa shall be cleaned and disinfected.	10
The water in a vaporizer machine shall be emptied daily and the unit disinfected daily.	2
The area where services are performed that come in contact with the patron's skin including chairs, tables, and beds shall be disinfected between patrons.	3

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-26.

21 NCAC 14H .0505 RULE COMPLIANCE AND ENFORCEMENT MEASURES

~~(a) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty in the~~

~~amount of three hundred dollars ($300.00) per container of product or piece of equipment:~~

~~(1) Methyl Methacrylate Liquid Monomer a.k.a. MMA; or~~

~~(2) razor-type callus shavers designed and intended to cut growths of skin including skin tags, corns, and calluses.~~

~~(b) The use of or possession of the following in a school or shop shall result in civil penalty in the amount of one hundred dollars ($100.00) per use or possession:~~

~~(1) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform any service; or~~

~~(2) variable speed electrical nail file unless it has been designed for use on the natural nail.~~

~~(c) The action of any student or licensee to violate the Board rules in the following manner shall result in civil penalty in the amount of one hundred dollars ($100.00) per instance of each action:~~

~~(1) use of any product, implement, or piece of equipment in any manner other than the product's, implement's, or equipment's intended use as described or detailed by the manufacturer;~~

~~(2) treatment of any medical condition unless referred by a physician;~~

~~(3) use of any product that will penetrate the dermis;~~

~~(4) provision of any service unless trained prior to performing the service;~~

~~(5) performance of services on a client if the licensee has reason to believe the client has any of the following:~~

~~(A) fungus, lice, or nits;~~

~~(B) inflamed infected, broken, raised, or swollen skin or nail tissue in the area to be worked on; or~~

~~(C) an open wound or sore in the area to be worked on;~~

~~(6) alteration of or duplication of a license issued by the Board;~~

~~(7) advertisement or solicitation of clients in any form of communication in a manner that is false or misleading; or~~

~~(8) use of any FDA rated Class II device without the documented supervision of a licensed physician.~~

~~(d) The failure to record the date and time of each cleaning and disinfecting of a footspa in a cosmetic art school or shop as required by this Subchapter including the date, time, reason, and name of the staff member who performed the cleaning or the failure to keep or make such record available for at least 90 days upon request by either a patron or inspector shall result in civil penalty in the amount of twenty-five dollars ($25.00) per footspa.~~

~~(e) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this Subchapter shall result in civil penalty in the amount of one hundred dollars ($100.00) per footspa.~~

~~(f) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, and sterile bandages available to provide first aid shall result in civil penalty in the amount of twenty-five dollars ($25.00) per item.~~

~~(g) The failure to maintain a sink with hot and cold running water in the clinic area, separate from restrooms, shall result in civil penalty in the amount of one hundred dollars ($100.00).~~

~~(h) The failure to provide ventilation at all times in the areas where patrons are serviced in cosmetic art shops shall result in civil penalty in the amount of twenty-five dollars ($25.00).~~

~~(i) The failure to maintain equipment and supplies necessary to perform any cosmetic art service offered in the shop shall result in civil penalty in the amount of one hundred dollars ($100.00).~~

~~(j) The failure to maintain a sanitation grade of 80 percent or higher shall result in a civil penalty in the amount of two hundred dollars ($200.00).~~

~~(k) Repeated violations of the rules in this Subchapter exceeding three written notifications of any one rule documented to any one individual, shop, or school shall result in a mandatory disciplinary hearing in accordance with 21 NCAC 14C.~~

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27; 88B-29.

SUBCHAPTER 14P – CIVIL PENALTY

SECTION .0100 – CIVIL PENALTY

21 NCAC 14P .0105 RENEWALS; EXPIRED LICENSES; LICENSES REQUIRED

(a) The presumptive civil penalty for operating a cosmetic art shop/school with an expired license <u>or temporary permit</u> is:

(1)	1st offense	$100.00
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

(b) The presumptive civil penalty for practicing cosmetology, manicuring, esthetics, or natural hair care with an expired license is:

(1)	1st offense	$ 50.00
(2)	2nd offense	$100.00
(3)	3rd offense	$250.00

(c) The presumptive civil penalty for allowing an apprentice or someone with a temporary permit to practice cosmetic art without direct supervision is:

(1)	1st offense	$100.00
(2)	2nd offense	$300.00
(3)	3rd offense	$500.00

(d) The presumptive civil penalty for practicing in a cosmetic art shop with an apprentice license or a temporary permit without direct supervision is:

(1)	1st offense	$100.00
(2)	2nd offense	$300.00
(3)	3rd offense	$500.00

(e) The presumptive civil penalty for teaching with an expired license is:

(1)	1st offense	$100.00
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

<u>(f) The presumptive civil penalty for allowing a North Carolina cosmetic art graduate without a temporary permit to practice cosmetic art without direct supervision is:</u>

(1)	1st offense	$100.00
(2)	2nd offense	$300.00
(3)	3rd offense	$500.00

(g) The presumptive civil penalty for practicing in a cosmetic art shop with as a North Carolina cosmetic art graduate without a temporary permit is:

(1)	1st offense	$100.00
(2)	2nd offense	$300.00
(3)	3rd offense	$500.00

Authority G.S. 88B-4; 88B-7; 88B-11; 88B-12; 88B-14; 88B-21; 88B-22; 88B- 23(a); 88B-24: 88B-29.

21 NCAC 14P .0106 LICENSES REQUIRED

(a) The presumptive civil penalty for practicing cosmetic art without a license is:

(1)	1st offense	$200.00
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

(b) The presumptive civil penalty for performing services which the practitioner is not licensed to perform is:

(1)	1st offense	$100.00
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

(c) The presumptive civil penalty for practicing cosmetic art teaching without a license is:

(1)	1st offense	$250.00
(2)	2nd offense	$350.00
(3)	3rd offense	$500.00

(d) The presumptive civil penalty for allowing an individual to perform services which the practitioner is not licensed to perform is:

(1)	1st offense	$100.00
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

Authority G.S. 88B-4; 88B-29.

21 NCAC 14P .0108 REVOCATION OF LICENSES AND OTHER DISCIPLINARY MEASURES

(a) The presumptive civil penalty for allowing unlicensed practitioners to practice in a licensed cosmetic art shop is:

(1)	1st offense	$500.00	per unlicensed practitioner
(2)	2nd offense	$750.00	per unlicensed practitioner
(3)	3rd offense	$1000.00	per unlicensed practitioner

(b) The presumptive civil penalty for practicing cosmetology, natural hair care, manicuring or esthetics with a license issued to another person is:

(1)	1st offense	$500.00
(2)	2nd offense	$800.00
(3)	3rd offense	$1,000.00

(c) The presumptive civil penalty for altering a license, permit or authorization issued by the Board is:

(1)	1st offense	$500.00
(2)	2nd offense	$800.00
(3)	3rd offense	$1000.00

(d) The presumptive civil penalty for submitting false or fraudulent documents is:

(1)	1st offense	$500.00
(2)	2nd offense	$800.00
(3)	3rd offense	$1,000.00

(e) The presumptive civil penalty for refusing to present photographic identification is:

(1)	1st offense	$100.00
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

(f) The presumptive civil penalty for permitting an individual to practice cosmetic art with an expired license is:

(1)	1st offense	$ 50.00
(2)	2nd offense	$100.00
(3)	3rd offense	$250.00

(g) The presumptive civil penalty for practicing or attempting to practice by fraudulent misrepresentation is:

(1)	1st offense	$500.00
(2)	2nd offense	$800.00
(3)	3rd offense	$1000.00

(h) The presumptive civil penalty for the illegal use or possession of equipment in a cosmetic art shop or school is:

(1)	1st offense	$300.00
(2)	2nd offense	$500.00
(3)	3rd offense	$1000.00

Authority G.S. 88B-4; 88B-24; 88B-29.

21 NCAC 14P .0111 ESTABLISHMENT OF COSMETIC ART SCHOOLS

(a) The presumptive civil penalty for failure to provide minimum floor space or equipment and supplies as required by ~~Subchapters 14G, 14J, and~~ Subchapter 14T is:

(1)	1st offense	$200.00
(2)	2nd offense	$350.00
(3)	3rd offense	$500.00

(b) The presumptive civil penalty for failure to provide instruction at a ratio required in 21 NCAC 14T .0701 is:

(1)	1st offense	warning ($100.00)
(2)	2nd offense	$250.00
(3)	3rd offense	$500.00

(c) The presumptive civil penalty for failure to report a change in the teaching staff as required in 21 NCAC 14T .0701 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(d) The presumptive civil penalty for failure to submit an application for the approval of a school in the case of a change of location or ownership as required in in 21 NCAC 14T .0706 is:

(1)	1st offense	~~$100.00~~ $500.00
(2)	2nd offense	~~$200.00~~ $750.00
(3)	3rd offense	~~$500.00~~ $1,000

Authority G.S. 88B-4(2); 88B-16; 88B-29.

21 NCAC 14P .0113 OPERATIONS OF SCHOOLS OF COSMETIC ART

(a) The presumptive civil penalty for failure to record student's hours of daily attendance per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($100.00)
(2)	2nd offense	$200.00
(3)	3rd offense	$300.00

(b) The presumptive civil penalty for failure to report withdrawal or graduation of a student per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(c) The presumptive civil penalty for failure to submit student enrollments per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(d) The presumptive civil penalty for failure to display a copy of the Infection Control rules is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(e) The presumptive civil penalty for failure to post consumer sign "Cosmetic Art School - Work Done Exclusively by Students" per 21 NCAC 14T .0201 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(f) The presumptive civil penalty for allowing a cosmetic art shop to operate within a cosmetic art school per 21 NCAC 14T .0201 is:

(1)	1st offense	$200.00
(2)	2nd offense	$400.00
(3)	3rd offense	$600.00

(g) The presumptive civil penalty for a cosmetic art school that is not separated from a cosmetic art shop or other business by a solid wall, floor to ceiling, with a separate entrance and a door that stays closed at all times per 21 NCAC 14T .0201 is:

(1)	1st offense	$200.00
(2)	2nd offense	$400.00
(3)	3rd offense	$600.00

(h) The presumptive civil penalty for failure to have any student wear the required school uniform or identification per 21 NCAC 14T .0613 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(i) The presumptive civil penalty for failure to renew or file school bond or bond alternative per G.S. 88B-17 is:

(1)	1st offense	$200.00
(2)	2nd offense	$400.00
(3)	3rd offense	$600.00

(j) The presumptive civil penalty for failure to maintain the student permanent file with required documents per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(k) The presumptive civil penalty for failure to maintain records of daily hours of attendance documents per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(l) The presumptive civil penalty for failure to maintain records of performances documents per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(m) The presumptive civil penalty for allowing an unlicensed individual to instruct cosmetic art per 21 NCAC 14T .0701 is:

(1)	1st offense	$500.00
(2)	2nd offense	$750.00
(3)	3rd offense	$1000.00

(n) The presumptive civil penalty for failure to track and record the student progression in an online education course per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(o) The presumptive civil penalty for allowing more than 50 percent for teachers and 30 percent of all other courses to be done through online education per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(p) The presumptive civil penalty for failure to administer education as required in 21 NCAC 14T .0612(c) is: ~~a test at the end of each online education course in person at the school per 21 NCAC 14T .0611 is:~~

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

(q) The presumptive civil penalty altering the format, school name or school code on a Board form per 21 NCAC 14T .0502 is:

(1)	1st offense	warning ($50.00)
(2)	2nd offense	$100.00
(3)	3rd offense	$200.00

Authority G.S. 88B-4; 88B-16; 88B-17; 88B-29.

21 NCAC 14P .0116 CIVIL PENALTY PROCEDURES

(a) Citations. The Board, through its duly authorized representatives, shall issue a citation with respect to any violation for which a civil penalty may be assessed. Each citation shall be in writing and shall describe the nature of the violation, including a reference to the specific provision alleged to have been violated. The civil penalty, if any, shall attach at the time the citation is written. The citation shall include an order to correct any condition or violation which lends itself to corrections, as determined by the Board.

(b) Correction of Violation. Any licensee who has been issued a warning citation must present written proof satisfactory to the Board, or its executive director, that the violation has been corrected. This provision applies only to a licensee's first violation in any one year period for a violation with a first offense warning penalty. Proof of correction shall be presented to the Board, through its executive director, within 30 days of the date the warning citation was issued. The Board may extend for a reasonable period, the time within which to correct the warning citation in case of a death or hospitalization. Notices of correction

filed after the prescribed date shall not be acceptable and the civil penalty shall be paid.
(c) Contested Case. Persons to whom a notice of violation or a citation is issued and a civil penalty assessed, may contest the civil penalty by filing written notice with the Board. The Board shall institute a contested case by sending a notice of hearing pursuant to G.S. 150B, Article 3A. The issuance of notice of hearing shall stay the civil penalty until the Board renders a final agency decision in the contested case.
(d) Final Agency Decision. The Board, after the hearing has been concluded, may affirm, reduce, or dismiss the charges filed in the notice of hearing or any penalties assessed. In no event shall the civil penalty be increased.
(e) Failure to File. If no written notice contesting the civil penalty is filed as set forth in Paragraph (c), the civil penalty becomes a final agency decision.
(f) Any offender who has not committed a previously cited offense for which a civil penalty has been assessed for a three year period after the last penalty payment is complete shall have his record of the specific offense cleared. The next subsequent violation shall be treated as a first offense.

Authority G.S. 88B-4; 88B-29.

21 NCAC 14P .0117 RULE COMPLIANCE AND ENFORCEMENT MEASURES

(a) The use of or possession of the following products or equipment in a school or shop shall result in civil penalty in the amount of three hundred dollars ($300.00) per container of product or piece of equipment:

(1) Methyl Methacrylate Liquid Monomer a.k.a. MMA; or
(2) razor-type callus shavers, hollow needles or blades.

(b) The use of or possession of the following in a school or shop shall result in civil penalty in the amount of one hundred dollars ($100.00) per use or possession:

(1) animals including insects, fish, amphibians, reptiles, birds, or non-human mammals to perform any service; or
(2) variable speed electrical nail file unless it has been designed for use on the natural nail.

(c) The action of any student or licensee to violate the Board rules in the following manner shall result in civil penalty in the amount of one hundred dollars ($100.00) per instance of each action:

(1) use of any product, implement, or piece of equipment in any manner other than the product's, implement's, or equipment's intended use as described or detailed by the manufacturer;
(2) treatment of any medical condition unless referred by a physician;
(3) use of any product or device that will penetrate the dermis;
(4) provision of any service unless trained prior to performing the service;
(5) performance of services on a client if the licensee has reason to believe the client has any of the following:
(A) fungus, lice, or nits;
(B) inflamed infected, broken, raised, or swollen skin or nail tissue in the area to be worked on; or
(C) an open wound or sore in the area to be worked on;
(6) alteration of or duplication of a license issued by the Board;
(7) advertisement or solicitation of clients in any form of communication in a manner that is false or misleading; or
(8) cut skin growths of skin including skin tags, corns, and calluses.

(d) The failure to record the date and time of each cleaning and disinfecting of a footspa in a cosmetic art school or shop as required by this Subchapter including the date, time, reason, and name of the staff member who performed the cleaning or the failure to keep or make such record available for at least 90 days upon request by either a patron or inspector shall result in civil penalty in the amount of twenty-five dollars ($25.00) per footspa.
(e) The failure to clean and disinfect a footspa in a cosmetic art shop or school as required by this Subchapter shall result in civil penalty in the amount of one hundred dollars ($100.00) per footspa.
(f) The failure to maintain in a cosmetic art shop and school antiseptics, gloves or finger guards, and sterile bandages available to provide first aid shall result in civil penalty in the amount of twenty-five dollars ($25.00) per item.
(g) The failure to maintain in a cosmetic art shop or school a sink with hot and cold running water separate from restrooms, shall result in civil penalty in the amount of one hundred dollars ($100.00).
(h) The failure to provide ventilation at all times in the areas where patrons are serviced in cosmetic art shops and schools shall result in civil penalty in the amount of twenty-five dollars ($25.00).
(i) The failure to maintain equipment and supplies necessary to perform any cosmetic art service offered in the shop or school shall result in civil penalty in the amount of one hundred dollars ($100.00).
(j) The failure to maintain a sanitation grade of 80 percent or higher shall result in a civil penalty in the amount of two hundred dollars ($200.00).
(k) Repeated violations of the rules in this Rule exceeding three written notifications of any one rule documented to any one individual, shop, or school shall result in a mandatory disciplinary hearing in accordance with 21 NCAC 14C.

Authority G.S. 88B-2; 88B-4; 88B-14; 88B-23; 88B-24; 88B-26; 88B-27; 88B-29.

SUBCHAPTER 14T – COSMETIC ART SCHOOLS

SECTION .0100 - SCOPE AND SCHOOL APPLICATIONS

21 NCAC 14T .0101 SCOPE AND DEFINITIONS

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

(1) Rules in this Subchapter apply to all cosmetic art schools making initial application to operate

a cosmetic art school after the effective date of these Rules.

(2) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter may choose to comply with Section .0100 and .0200, Rules .0302-.0305 of this Subchapter.

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

(4) Schools with a letter of approval dated prior to the effective date of the rules in this Subchapter must comply with Rules .0501, .0502, .0601, .0611-.0613, .0616,-.0901 upon the effective date of the rules in this Subchapter.

(b) These definitions apply to cosmetic art schools licensed by the Board:

(1) "Clinic" is the area for performance of all cosmetic art services. The clinic may also be used for practice.

(2) "Conceptual Education" consists of lectures, research, reading, online learning, videos, instructional clips and other non-tactile forms of instruction.

(3) "Demonstration" is when a teacher shows the hands-on systematic completion of the steps for a safe and effective cosmetic art service.

(4) "Evaluation" is the assessment of a student's independent completion of a practice or performance evaluation plan by a teacher.

(5) "Evaluation plan" is a document that outlines the infection control, tool safety, draping, safe application and steps for systematic completion of a cosmetic art service.

(6) "Guided practice" is when a teacher and student work together on systematic completion of the steps for a safe and effective cosmetic art service.

(7) "Guided theory" is when a teacher lectures, instructs, and coaches factual basis for mechanical operations performed in cosmetic art services.

(8) "Hands-on Education" – the repeated physical completion of practice and performances, to provide students with the tactile interaction of different hair, skin, nail types and shapes for the purpose of providing experience to safe and effective cosmetic art services despite variable circumstances.

(9) "Independent Theory" is the student study of factual basis for mechanical operations performed in cosmetic art services.

(10) "Performance" is the hands-on execution of the systematic completion of the steps for a safe and effective cosmetic art service on a live individual by a student, performance is monitored during the execution and checked by a teacher upon completion for the purpose of pointing out errors in order that the errors may be corrected.

(11) "Performance station" for each cosmetic art discipline consists of:

(A) cosmetology – hydraulic styling chair, mirror, and work space for supplies;

(B) manicuring – manicuring table, client chair, and student chair;

(C) esthetics – reclining facial treatment table with leg support and student stool, work space for supplies; and

(D) natural hair care - hydraulic styling chair, mirror, and work space for supplies.

(12) "Practice" is the independent hands-on execution of the systematic completion of the steps for a safe and effective cosmetic art service on a mannequin by a student, practice is monitored during the execution and checked by a teacher upon completion, for the purpose of pointing out errors in order that the errors may be corrected.

(13) "Practice station" is a minimum of 24 inches deep by 36 inches wide of workspace surface in an area with hot and cold running water.

(14) Required Evaluations" are mannequin practice evaluations that must be passed prior to student performances on a live model. The list of required evaluations is specific to each discipline and established in each curriculum rule and letter (c).

(15) "Safe and effective" is the completion of the systematic steps for a cosmetic art service following infection control regulations, manufacturer's instructions, and equipment handling.

(16) "Service" is the action of hands-on systematic steps for the safe and effective completion of a cosmetic art procedure that alters the hair, skin or nails.

(17) "Theory" is the factual basis for mechanical operations performed in cosmetic art services.

(18) "Online instruction" is off-site conceptual education.

(19) "Client consultation" is the review and discussion of client needs and preferences, assessment of client skin, hair, and nails, and assessment of product reactions.

(20) "Tool safety" is the factual basis for the safe handling and operation of any tool or device used in a cosmetic art service.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0102 NEW SCHOOL APPLICATIONS

(a) Persons desiring to operate a cosmetic art school in the state of North Carolina shall make application for licensure by

submitting to the Board the Board's School Application. The Board's School Application shall include:

(1) School name;
(2) Cosmetic Art discipline(s) to be taught;
(3) Physical address and mailing address;
(4) Phone number;
(5) Email address;
(6) Ownership type;
(7) Reason for application;
(8) Owner name;
(9) School contact person with phone number and email address; and
(10) List of teachers with cosmetic art license number.

(b) School application forms must be submitted along with supporting documents as follows:

(1) Proof of bond as required by G.S. 88B-17;
(2) Diagram with location of equipment placement and marking square footage of all areas including classrooms, dispensary, water supplies, stations, locker room or dressing room, office areas, reception areas, and restroom facilities;
(3) Course curriculum and required evaluations plans for each cosmetic art discipline and teacher trainee program to be taught in the school;
(4) Plans for record keeping for compliance with 21 NCAC 14T .0502; ~~of student hours, minimum course requirement qualifications, and student performances;~~
(5) The qualifications for passing ~~a performance requirement~~ required evaluations and techniques for grading of performances;
(6) Handbook for students containing student policies on attendance, leave of absence policy, performance assignment, and a plan ~~to assist~~ for instruction of students to achieve the required minimum ~~hours~~ hours, practice, and performances per 21 NCAC 14T ~~.0602 .0610;~~ .0602-.0610 and any additional academic requirements established by the school;
(7) A raised seal identifying the school name and physical location to be used on all Board forms, reports, and other official papers;
(8) Documentation of local municipality fire, mechanical code, occupancy, electrical and plumbing approval;
(9) School operation schedule including days, hours, and observed holidays; and
(10) Signed ~~and notarized~~ statement that the school owner has read and understands the Board's rules in this Subchapter.

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

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

Authority G.S. 88B-4; 88B-16; 88B-17.

SECTION .0200 - PHYSICAL REQUIREMENTS FOR COSMETIC ART SCHOOLS

21 NCAC 14T .0201 ALL COSMETIC ART SCHOOLS

(a) Cosmetology schools must have the following physical departments:

(1) Practice Department – a minimum of 200 square feet with practice stations ~~a table or tables and or stands~~ to accommodate at least 10 students. ~~students and have at least 40 inches between each mannequin~~. ~~Cosmetic art schools must provide an additional 5 square feet in the practice department for each student over the maximum of 10. This area shall have at least one mirror of a minimum of two square feet.~~
(2) Clinic Department – a minimum of 1200 square feet of ~~the~~ clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
    (A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
    (B) 24 inches from the center of the chair forward;
    (C) 48 inches from the backrest behind the chair to any other styling chair, ~~esthetics table~~ reclining or flat facial treatment table with leg support or manicuring table; and
    (D) at least 30 inches of space from the back of each styling chair, ~~esthetics table~~ reclining or flat facial treatment table to the wall of the school.
(3) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements and a sink with hot and cold running water. All cosmetic art schools must have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
(4) Theory classroom – classroom with a minimum of 300 square feet including desks and chairs for each student. ~~feet to accommodate a maximum of 25 students. Cosmetic art schools must provide an additional 8 square feet in the theory classroom for each student over the maximum of 25;~~
(5) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a locking cabinet, electronic office equipment suitable for scanning, printing and secure document storage and a minimum of one desk and one chair;
(6) Reception area – a reception area for clients to wait prior to receiving services;
(7) Break room for student use;

(8) Restrooms for student and public use;
(9) ~~Locker or dressing room – a locker~~ Locker or room for students to secure and lock personal belongings throughout the day; and
(10) All stations as defined in Rule .0302 of this Subchapter must be numbered numerically.

(b) Manicuring, esthetics and natural hair care schools must have the following physical departments:
(1) Clinic Department – the clinic floor for performance of all cosmetic art services. Within the clinic area each school shall have:
(A) 48 inches of space from the center to the center of each styling chair, esthetics table or manicuring table;
(B) 24 inches from the center of the chair forward;
(C) 48 inches from the backrest behind the chair to any other styling chair, ~~esthetics table~~ reclining or flat facial treatment table with leg support or manicuring table; and
(D) at least 30 inches of space from the back of each styling chair or ~~esthetics table~~ reclining or flat facial treatment table with leg support to the wall of the school.
(2) Dispensary – a room or area to organize and maintain supplies, equipment for disinfection of all implements, and a sink with hot and cold running water. All cosmetic art schools shall have the required equipment to carry out disinfection procedures per 21 NCAC 14H .0403 and .0404;
(3) ~~Theory~~ Theory/practice classroom – a room or area with equipment for theory training appropriate to both practical and theory learning including practice stations ~~desks~~ and ~~chairs~~ chairs; ~~and a table or tables and have at least 40 inches between each mannequin.~~
(4) Office – administrative office with a locking door for the secure and locked facilitation of student records and files. This office shall be outfitted with a locking cabinet, electronic office equipment suitable for scanning, printing and secure document storage and a minimum of one desk and one chair;
(5) Reception area – a reception area for clients to wait prior to receiving services;
(6) Break room for student use;
(7) Restrooms for student and public use;
(8) ~~Locker or dressing room – a locker~~ Locker or room for students to secure and lock personal belongings throughout the day; and
(9) All stations as defined in Rule .0304 of this Subchapter must be numbered numerically.

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

(d) Each of the requirements listed within this Rule must be located within the same building with the exception of the theory classroom, which may be located in an adjacent building or another building within 500 feet of the main cosmetic art building and a proctored examination center, which may be located on the school campus. Theory classrooms located in an adjacent building or another building within 500 feet of the main cosmetic art building shall not be used for student practice.

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

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

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

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

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

(j) All cosmetic art school buildings shall be maintained. Maintenance includes the safe and working condition of the physical building, furniture, equipment and supplies.

(k) All cosmetic art schools must maintain a bulletin board in sight of the clinic floor. The bulletin board shall be used to display at all times the Board Infection Control rules in 21 NCAC 14H .0200, .0300, .0400, and .0500 and the sanitation grade card issued to the school.

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

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

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

~~(o) When a school and a shop are under the same ownership:~~
~~(1) separate operation of the shop and school shall be maintained;~~
~~(2) if~~

(n) If ~~the~~ a school and shop are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be ~~maintained; and~~ maintained. If a school and another business are located in the same building, they must be separated by a solid wall of at least seven feet in height; separate entrances and visitor reception areas shall be maintained.

~~(3) the~~

(o) All ~~school and shop~~ schools and shops shall have separate public information releases, advertisements, names, and advertising signs.

(p) A cosmetic art school must maintain space and equipment appropriate to both practical and theory learning, including desks, chairs, and station requirements so that each student in attendance has a location within which to complete assigned tasks. Each station or desk space shall be designated for only one student at a time.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0202 COSMETOLOGY SCHOOLS

~~Cosmetology Schools must have the following physical departments: Advanced Department - a minimum clinic floor of 1200 square feet which shall accommodate a maximum of 40 enrolled advanced students. All cosmetology schools must provide an additional 10 square feet on the clinic floor for each enrolled advanced student over 40. Each side approach shampoo bowl must be at least 40 inches apart, center of bowl to center of bowl; free standing shampoo bowls must be at least 31 inches apart, center of bowl to center of bowl.~~

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0300 - SCHOOL EQUIPMENT AND SUPPLIES

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

(a) All cosmetic art schools shall maintain for student use, in a dispensary, supplies for all cosmetic art services ~~offered~~ in the school. Simulated products may be used for demonstrations and ~~practice,~~ practice. ~~simulated~~ Simulated products may not be used for required evaluation plan ~~assessments.~~ assessments with the exception of sodium hydroxide relaxers.

(b) All cosmetic art schools shall maintain for student use, equipment for all cosmetic art services offered and for all required evaluations in the school.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0302 EQUIPMENT FOR COSMETOLOGY SCHOOLS

(a) The practice department in a cosmetology school shall be equipped with the following equipment:

~~(1) One manicure table and stool;~~

~~(2)~~(1) One shampoo bowl with hot and cold running water and chair;

~~(3) Thermal styling equipment for the purpose of curling and straightening hair;~~

~~(4)~~(2) Visual aids; and

~~(5)~~(3) One ~~mannequin practice table or stand~~ practice station to accommodate each student in the practice department.

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

(1) 20 stations. Each station shall include one mirror, one electrical outlet, and one hydraulic chair;

(2) Four hooded floor type dryers and chairs;

(3) Four shampoo bowls with hot and cold running water and chairs;

(A) each side approach shampoo bowl shall be at least 40 inches apart, center of bowl to center of bowl;

(B) each free standing shampoo bowl shall be at least 31 inches apart, center of bowl to center of bowl;

(C) all other types of shampoo bowls shall be at least 31 inches apart, center of bowl to center of bowl;

(4) Two manicure tables and stools;

(5) One pedicure station that shall include a chair, a foot bath, and a stool; and

(6) One reclining or flat facial treatment table with leg support ~~or chair~~ and a ~~stool.~~ stool; and

(7) One facial vaporizer.

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

(1) One station for each additional two students;

(2) One shampoo bowl with hot and cold running water for each additional ~~10~~ 20 students;

~~(3) One manicure table and stool for each additional 15 students;~~

~~(4) One pedicure station for each additional 20 students; and~~

~~(5)~~(3) One ~~facial lounge~~ reclining or flat facial treatment table with leg support or chair for each additional ~~40~~ 60 students.

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

(e) The theory department in a cosmetology school shall be equipped with desks and chairs.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0303 EQUIPMENT FOR ESTHETICS SCHOOLS

(a) The practice department in an esthetics school shall be equipped with one mannequin practice table or stand to accommodate each student in the practice department. If the practice department is separate from the clinic, in another room with a door, the practice department must also have one hand washing sink with hot and cold running water, separate from restrooms.

(b) The clinic department in an esthetics school shall be equipped with the following for up to 20 students:

(1) Ten stations: a station shall include a ~~facial treatment chair or treatment table~~ reclining facial treatment table with leg support and one stool;

(2) a waste container at each station;
(3) One facial vaporizer;
(4) One galvanic current apparatus;
(5) One infra-red lamp;
(6) One woods ~~lamp;~~ lamp or skin scope;
(7) One magnifying lamp;
(8) One hard wax hair removal ~~wax~~ system;
(9) One ~~thermal~~ soft wax system;
(10) One ~~suction~~ pore vacuum machine;
(11) Two stations with electrical outlet;
~~(11)~~(12) One exfoliation machine with brushes; and
~~(12)~~(13) One hand washing sink with hot and cold running water, separate from restrooms.

(c) The clinic department in an esthetics school shall be equipped with the following if there are more than 20 enrolled students:

(1) One station for each additional two students: a station shall include one ~~facial treatment table or chair~~ reclining facial treatment table with leg support and one stool; and
(2) Two hand washing sinks with hot and cold running water, separate from restrooms.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0304 EQUIPMENT FOR MANICURING SCHOOLS

(a) The practice department in a manicuring school shall be equipped with one mannequin practice table or stand to accommodate each student enrolled in the practice department. If the practice department is separate from the clinic, in another room with a door, the practice department must also have one hand washing sink with hot and cold running water, separate from restrooms.

(b) The clinic department in a manicuring school shall be equipped with the following for up to 20 students:

(1) Two hand washing sinks with hot and cold running water, separate from restrooms, located in or adjacent to the clinic area;
(2) Ten ~~work~~ manicuring tables with two chairs per table;
(3) Ten pedicure chairs and basins;
(4) Two stations with electrical outlet;
~~(4)~~(5) A waste container at each station; and
~~(5)~~(6) A covered container for soiled or disposable towels located in the clinic area.

(c) The clinic department in a manicuring school shall be equipped with the following if there are more than 20 enrolled students:

(1) One station for each additional two students, a station shall include one ~~work~~ manicuring table and two chairs; and
(2) Two hand washing sinks with hot and cold running water, separate from restrooms.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

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

(a) The practice department in a natural hair care styling school shall be equipped with the following:

(1) Styling equipment for the purpose of natural hair care;
(2) Visual aids; and
(3) ~~One mannequin practice table or stand~~ Practice station to accommodate each student;
(4) If the practice department is separate from the clinic, in another room with a door, the practice department must also have one hand washing sink with hot and cold running water, separate from restrooms.

(b) The clinic department in a natural hair care styling school shall be equipped with the following for up to 16 students:

(1) Two shampoo bowls and chairs as follows:
(A) each side approach shampoo bowl shall be 40 inches apart center of bowl to center of bowl; and
(B) each free standing shampoo bowl shall be 31 inches apart center of bowl to center of bowl;
(2) Eight stations. A station shall include one mirror and one hydraulic chair;
(3) One station with electrical outlet;
~~(3)~~(4) One hooded floor type dryer; and
~~(4)~~(5) Styling equipment for the purpose of natural hair care.

(c) The clinic department in a natural hair care styling school shall be equipped with an additional station for every two students if there are more than 16 enrolled students.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0500 - RECORD KEEPING

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

(a) Cosmetic art schools must maintain locked storage for the permanent files of all enrolled students and students who have withdrawn or graduated together in one room within the approved square footage of the cosmetic art school. Withdrawal and graduation forms reviewed by the Board or an agent of the Board may be removed from this ~~room~~. and stored in accordance with Paragraph (i) of this Rule. The permanent file shall include a copy of:

(1) All Board Enrollment ~~Form;~~ Forms with student original signature;
(2) Documentation of student receipt of evaluation plans, school policies, school handbook, school and student contract; the Board Infection Control rules as set forth in 21 NCAC 14H .0200, .0300, .0400, and .0500 and 21 NCAC 14I .0401, and 21 NCAC 14T .0612 and .0703.
~~(3)~~ ~~All Board Withdrawal Forms;~~
~~(4)~~(3) Social security card for any individual who has a social security number or tax ID card or

Department of Homeland Security ID; ~~student visa information;~~

~~(5)~~(4) Government issued photo ID and proof of date of birth;

~~(6)~~(5) Documentation of field trip hours, grades for all required evaluation plans with date of completion and teacher signature. ~~Grades for all examinations and performance evaluation plans. Performance evaluation plans shall be dated, graded, and signed by a teacher;~~

~~(7)~~(6) Documentation for any leave of absence over 30 days. Documentation shall include an anticipated return date and updated notes every 30 days if the return date exceeds the anticipated return date;

~~(8)~~(7) Transfer of hours form documenting hours earned in other schools ~~and~~ for hours accepted by current school; ~~and~~

(8) All Board Withdrawal Forms;

(9) Internship Form; and

~~(9)~~(10) Graduation Form.

(b) The school shall keep onsite, records ~~of~~ for all enrolled students:

~~(1) A daily record of the actual number of hours of attendance;~~

~~(2) A daily record of the actual number of hours and educational achievements completed via online;~~

~~(3) An updated Performance evaluation plan showing the actual date of the performance and the teacher who approved the performance evaluation plan; and~~

~~(4) A record of hours and subtotaled weekly.~~

(1) daily attendance in school;

(2) daily online hours;

(3) daily field trip hours; ~~and documentation of field trip hours~~

(4) weekly guided theory and demonstration;

(5) weekly subtotal of attendance in school;

(6) weekly subtotal of online hours;

(7) running grand total of all earned hours through the prior week;

(8) performances.

(c) Upon withdrawal or graduation the daily records, weekly subtotals and grand total shall be placed in the student's permanent file.

~~(c)~~(d) When a student enrolled in a cosmetic art school withdraws from the school, the cosmetic art school shall report the withdrawal to the Board.

~~(d)~~(e) If a student withdraws from a cosmetic art discipline within the first five days, the school need not submit the enrollment to the Board. The unsubmitted enrollment must be maintained in the student file until reviewed by the Board or an agent of the Board after which, it may be removed.

~~(e)~~(f) The graduation form documentation must be signed by on site school staff or on site school administrators and must have the seal of the school affixed. The original graduation form documentation must be prepared on the Board form and shall indicate that the applicable requirement of this Chapter have been met. The cosmetic art school shall ~~mail~~ securely submit the graduation form to the Board at the Board's address set forth in Rule 14A .0104 or submit the graduation form via the Board's school documents portal at www.nccosmeticarts.com within 30 days of the student's graduation date.

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

~~(g)~~(h) Changes or corrections made by the school to any Board form must be submitted to the Board with supporting documentation.

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

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

~~(j)~~(k) The record of all hours and performance evaluation plans must be documented in writing. Credit issued to students that cannot be verified shall be eliminated from the student record by an agent of the Board.

~~(k)~~(l) Access to student records must be limited to agents of the Board, teachers, and administrators of the school. Electronic versions of student records must be kept secure and may only be accessed through school authorized equipment. Personal devices may not be used to access student records. Records shall not be altered offsite. Records that are altered must be altered onsite and must have documentation supporting the change attached. The format, school name, and school code on Board forms cannot be altered.

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

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

~~(n)~~(o) Minimum scores required for examinations and the successful completion of ~~live model and mannequin~~ practice or performances as determined through the school's evaluation plan that is approved by the Board at the time of application shall be disclosed to students at the time of enrollment. Teachers must use the evaluation plan approved by the Board to assess student competency. Passing grades and performances shall not be

credited to students who fail to meet the requirements of the evaluation plan.

~~(o) Cosmetic art schools must provide to each student a copy of school policies and 21 NCAC 14I .0401. The school shall retain for the permanent file a copy of the student's acknowledgement of receipt of these documents.~~

(p) The names of students with unsatisfied academic obligations shall not be submitted to the Board as graduates but may be submitted as withdrawn.

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

(r) Records of hours must be rounded to no more than the nearest quarter hour. Cosmetic art schools shall not give or deduct hours or performances as rewards or penalties.

(s) An applicant shall receive credit for instruction taken in another state if the applicant's record is certified by the state agency or department that issues licenses to practice in the cosmetic arts. If this agency or department does not maintain any student records or if the state does not give license to practice in the cosmetic arts, then the records may be certified by any state department or state agency that does maintain such records and is willing to certify their accuracy. If no state department or board will certify the accuracy of the student's records, then the Board shall review the student's records for validity on a case-by-case basis using the documentation provided by the ~~student.~~ out-of-state school and submitted to the Board by the accepting NC school.

(t) Hours transferred between open North Carolina schools must be obtained by the submission of the Board transfer form mailed directly from the school in which the hours are earned with the school seal affixed, with grades for examinations and performances to the new school in which a student enrolls. Such original documentation shall be submitted to the Board with enrollment. Transfer forms shall include the following:

(1) Student name and social security number;
(2) School code;
(3) Course type and required evaluations; ~~and total number of live model and mannequin service practice and performances;~~
(4) Enrollment date and last date of attendance;
(5) Number of hours and minutes completed;
(6) School owner name or on-site official and signature; and
(7) School seal.

(u) A student must pass an entrance examination including ~~mannequin~~ required evaluations given by the school to which the student is transferring for the hours to be transferred from one cosmetic art school to another.

(v) Certification of completion of a curriculum established in 21 NCAC 14T .0602-.0610 shall be required on the graduation form and application for the Board examination. Graduation forms shall include the following:

(1) Student name and social security number;
(2) School code;
(3) Course type completed;
(4) Date of course completion;
(5) Number of hours and minutes completed;
(6) School owner or on-site official name and signature; and
(7) School seal.

Authority G.S. 88B-4; 88B-16.

SECTION .0600 - CURRICULA

21 NCAC 14T .0601 COSMETIC ART CURRICULA

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

(b) Blood exposure and infection control evaluations must be passed with a score of 100 percent before a student may ~~perform a mannequin or live model performance~~ practice or execute a performance for a cosmetic art service. Before a student may ~~perform a live model~~ execute a performance the student shall pass the respective mannequin ~~performance~~ practice evaluation plan.

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

~~(d)~~(c) All cosmetic art students shall receive training on Board laws, Board Rules, website, licensure scope of practice, Safety Data Sheets prepared by the manufacturer on all products used by the school's students in performances.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0602 COSMETOLOGY CURRICULUM

(a) To meet the approval of the Board, a cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1500 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

(1) Blow drying and hot iron;
(2) Hair cut with shears, a razor and clipper;
(3) Color application including virgin and retouch;
(4) Relaxer application including virgin and retouch;
(5) Permanent waving;
(6) Basic manicure;
(7) Basic pedicure;
(8) Basic facial including steam; and
(9) Waxing.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

(1) Shampooing;
(2) Roller sets;
(3) Pin curls;
(4) Ridge curls with C shaping;
(5) Fingerwaves;
(6) Artificial hair;
(7) Up-styles;
(8) Pressing or thermal;
(9) Blow drying;
(10) Hot iron;
(11) Styles that apply tension (twists, braiding, locs, or knots);
(12) Solid form cut;
(13) Elevated cut;
(14) Cut with tapered or thinning shears;
(15) Razor cut;
(16) Clipper cut;
(17) Shears over comb cut;
(18) Clippers over comb cut;
(19) Virgin darker;
(20) Virgin lightener;
(21) Retouch;
(22) Foil;
(23) Freehand painting;
(24) Relaxer virgin;
(25) Relaxer retouch;
(26) Permanent waving rod placement rectangle, or contour or bricklay-overlap or spiral;
(27) Basic manicure or pedicure;
(28) Artificial nails;
(29) Basic facial;
(30) Waxing including face and body;
(31) Hair removal with tweezers;
(32) Hair removal with razor;
(33) Makeup application;
(34) Lash lift and brow lamination;
(35) Artificial lashes; and
(36) Lash and brow tint.

~~(a) To meet the approval of the Board, a cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1500 hours of instruction in theory and practical application as set forth in this Rule.~~

~~(b) Theory and practical application subjects shall include:~~

~~(1) Professional image;~~
~~(2) Infection control;~~
~~(3) Bacteriology;~~
~~(4) Disinfection;~~
~~(5) First aid;~~
~~(6) Anatomy;~~
~~(7) Electricity as it relates to cosmetic art;~~
~~(8) Chemistry as it relates to cosmetic art;~~
~~(9) Professional ethics;~~
~~(10) Draping;~~
~~(11) Shampooing;~~
~~(12) Roller sets;~~
~~(13) Pin curls;~~
~~(14) Ridge curls with C shaping;~~
~~(15) Fingerwaves;~~
~~(16) Braids;~~
~~(17) Artificial hair;~~
~~(18) Up-styles;~~
~~(19) Blowdrying;~~
~~(20) Brush control;~~
~~(21) Blowdrying with curling iron;~~
~~(22) Pressing or thermal;~~
~~(23) Hair cutting;~~
~~(24) Partings;~~
~~(25) Perm types and wraps;~~
~~(26) Relaxer types and sectioning;~~
~~(27) Color types and application sectioning;~~
~~(28) Scalp treatments;~~
~~(29) Manicures;~~
~~(30) Pedicures;~~
~~(31) Artificial nails;~~
~~(32) Styles and techniques of cosmetology services including:~~
~~(A) Arranging;~~
~~(B) Dressing;~~
~~(C) Curling;~~
~~(D) Waving;~~
~~(E) Cutting techniques and implements including razors, clippers, thinning shears, and shears;~~
~~(F) Cleansing;~~
~~(G) Cutting;~~
~~(H) Singeing;~~
~~(I) Bleaching, or coloring hair;~~
~~(J) Esthetics;~~
~~(K) Manicuring;~~
~~(L) Business management; and~~
~~(M) Salon business; and;~~
~~(33) Board laws, rules and website.~~

~~(c) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students shall be trained on the following performance requirements:~~

~~(1) Infection Control;~~
~~(2) Blood exposure procedure;~~
~~(3) Blow drying;~~
~~(4) Hot iron;~~
~~(5) Styles that apply tension (twists, braiding, locs, or knots);~~
~~(6) Solid form cut;~~
~~(7) Elevated cut;~~
~~(8) Cut with tapered or thinning shears;~~
~~(9) Razor cut;~~
~~(10) Clipper cut;~~
~~(11) Shears over comb cut;~~

~~(12) Clippers over comb cut;~~
~~(13) Virgin darker;~~
~~(14) Virgin lightener;~~
~~(15) Retouch;~~
~~(16) Foil;~~
~~(17) Freehand painting;~~
~~(18) Relaxer virgin;~~
~~(19) Relaxer retouch;~~
~~(20) Curl reforming virgin;~~
~~(21) Curl reforming retouch;~~
~~(22) Permanent waving rod placement rectangle;~~
~~(23) Permanent waving rod placement contour;~~
~~(24) Permanent waving rod placement bricklay overlap;~~
~~(25) Permanent waving rod placement spiral;~~
~~(26) Basic manicure;~~
~~(27) Artificial nails~~
~~(28) Basic facial;~~
~~(29) Waxing including face and body;~~
~~(30) Hair removal with tweezers;~~
~~(31) Hair removal with razor; and~~
~~(32) Makeup application.~~

~~(d) Each school must develop and use performance evaluation plans for each of the Board required performances listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent, received theory and practical instructions, and passed each of the following performance evaluations prior to performing services on a live model:~~

~~(1) Blow drying and hot iron;~~
~~(2) Hair cut with shears, a razor and clipper.~~
~~(3) Color application including virgin and retouch~~
~~(4) Relaxer application including virgin and retouch;~~
~~(5) Permanent waving;~~
~~(6) Basic manicure with pedicure difference;~~
~~(7) Basic facial including steam; and~~
~~(8) Waxing.~~

~~(e) Certification of performance completions shall be required on the graduation form and application for the Board examination. Graduation forms shall include the following:~~

~~(1) Student name and social security number;~~
~~(2) School code;~~
~~(3) Course type completed;~~
~~(4) Date of course completion;~~
~~(5) Number of hours and minutes completed;~~
~~(6) School owner name and signature; and~~
~~(7) School seal.~~

Authority G.S. 88B-4; 88B-16.

21 NCAC 14T .0603 APPRENTICE COSMETOLOGY CURRICULUM

(a) To meet the approval of the Board, a cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1200 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

(1) Blow drying and hot iron;
(2) Hair cut with shears, a razor and clipper.
(3) Color application including virgin and retouch
(4) Relaxer application including virgin and retouch;
(5) Permanent waving;
(6) Basic manicure
(7) Basic pedicure;
(8) Basic facial including steam; and
(9) Waxing.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

(1) Shampooing
(2) Roller sets;
(3) Pin curls;
(4) Ridge curls with C shaping;
(5) Fingerwaves;
(6) Artificial hair;
(7) Up-styles;
(8) Pressing or thermal;
(9) Blow drying;
(10) Hot iron;
(11) Styles that apply tension (twists, braiding, locs, or knots);
(12) Solid form cut;
(13) Elevated cut;
(14) Cut with tapered or thinning shears;
(15) Razor cut;
(16) Clipper cut;
(17) Shears over comb cut;
(18) Clippers over comb cut;
(19) Virgin darker;
(20) Virgin lightener;
(21) Retouch;
(22) Foil;
(23) Freehand painting;
(24) Relaxer virgin;
(25) Relaxer retouch;

(26) Permanent waving rod placement rectangle, or contour or bricklay-overlap or spiral;
(27) Basic manicure or pedicure;
(28) Artificial nails;
(29) Basic facial;
(30) Waxing including face and body;
(31) Hair removal with tweezers;
(32) Hair removal with razor;
(33) Makeup application;
(34) Lash lift and brow lamination;
(35) Artificial lashes; and
(36) Lash and brow tint.

~~(a) To meet the approval of the Board, an apprentice cosmetologist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 1200 hours of instruction in theory and practical application as set forth in this Rule.~~

~~(b) Theory and practical application subjects shall include:~~

~~(1) Professional image;~~
~~(2) Infection control;~~
~~(3) Bacteriology;~~
~~(4) Disinfection;~~
~~(5) First aid;~~
~~(6) Anatomy;~~
~~(7) Electricity as it relates to cosmetic art;~~
~~(8) Chemistry as it relates to cosmetic art;~~
~~(9) Professional ethics;~~
~~(10) Draping;~~
~~(11) Shampooing;~~
~~(12) Roller sets;~~
~~(13) Pin curls;~~
~~(14) Ridge curls with C shaping;~~
~~(15) Fingerwaves;~~
~~(16) Braids;~~
~~(17) Artificial hair;~~
~~(18) Up styles;~~
~~(19) Blowdrying;~~
~~(20) Brush control;~~
~~(21) Blowdrying with curling iron;~~
~~(22) Pressing or thermal;~~
~~(23) Hair cutting;~~
~~(24) Partings;~~
~~(25) Perm wraps;~~
~~(26) Relaxer sectioning;~~
~~(27) Color application sectioning;~~
~~(28) Scalp treatments;~~
~~(29) Manicures;~~
~~(30) Pedicures;~~
~~(31) Artificial nails;~~
~~(32) Styles and techniques of cosmetology services including:~~
~~(A) Arranging;~~
~~(B) Dressing;~~
~~(C) Curling;~~
~~(D) Waving;~~
~~(E) Cutting techniques and implements including razors, clippers, thinning shears, and shears;~~
~~(F) Cleansing;~~
~~(G) Cutting;~~
~~(H) Singeing;~~
~~(I) Bleaching, or coloring hair;~~
~~(J) Esthetics;~~
~~(K) Manicuring;~~
~~(L) Business management; and~~
~~(M) Salon business; and;~~
~~(33) Board laws, rules and website.~~

~~(c) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students shall be trained on the following performance requirements:~~

~~(1) Infection Control;~~
~~(2) Blood exposure procedure;~~
~~(3) Blow drying;~~
~~(4) Hot iron;~~
~~(5) Styles that apply tension (twists, braiding, locs, or knots);~~
~~(6) Solid form cut;~~
~~(7) Elevated cut;~~
~~(8) Cut with tapered or thinning shears;~~
~~(9) Razor cut;~~
~~(10) Clipper cut;~~
~~(11) Shears over comb cut;~~
~~(12) Clippers over comb cut;~~
~~(13) Virgin darker;~~
~~(14) Virgin lightener;~~
~~(15) Retouch;~~
~~(16) Foil;~~
~~(17) Freehand painting;~~
~~(18) Relaxer virgin;~~
~~(19) Relaxer retouch;~~
~~(20) Curl reforming virgin;~~
~~(21) Curl reforming retouch;~~
~~(22) Permanent waving rod placement rectangle;~~
~~(23) Permanent waving rod placement contour;~~
~~(24) Permanent waving rod placement bricklay-overlap;~~
~~(25) Permanent waving rod placement spiral;~~
~~(26) Basic manicure;~~
~~(27) Artificial nails;~~
~~(28) Basic facial;~~
~~(29) Waxing including face and body;~~
~~(30) Hair removal with tweezers;~~
~~(31) Hair removal with razor; and~~
~~(32) Makeup application.~~

~~(d) Each school must develop and use performance evaluation plans for each of the Board required performances listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent, received theory and practical instructions, and passed each of the following performance evaluations prior to performing services on a live model:~~

~~(1) Blow drying and hot iron;~~

~~(2) Hair cut with shears, a razor and clipper.~~
~~(3) Color application including virgin and retouch~~
~~(4) Relaxer application including virgin and retouch;~~
~~(5) Permanent waving;~~
~~(6) Basic manicure with pedicure difference;~~
~~(7) Basic facial including steam; and~~
~~(8) Waxing.~~

~~(c) Certification of performance completions shall be required on the graduation form and application for the Board examination. Graduation forms shall include the following:~~

~~(1) Student name and social security number;~~
~~(2) School code;~~
~~(3) Course type completed;~~
~~(4) Date of course completion;~~
~~(5) Number of hours and minutes completed;~~
~~(6) School owner name and signature; and~~
~~(7) School seal.~~

Authority G.S. 88B-4; 88B-16.

21 NCAC 14T .0604 ESTHETICS CURRICULUM

(a) To meet the approval of the Board, an esthetician training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 600 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

(1) Basic facial, including steam;
(2) Waxing;
(3) Lash lift and brow lamination;
(4) Artificial lashes; and
(5) Lash and brow tint.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

(1) Draping;
(2) Basic facials;
(3) Waxing including underarm, lip, eyebrow, leg and bikini;
(4) Hair removal with depilatory and tweezers;
(5) Makeup application;
(6) Facials with machines including Woods lamp, magnifier, galvanic current, LED light, high frequency (direct and indirect), infrared light, vaporizer, microderm abrasion, suction, exfoliating;
(7) Manual Exfoliation including products and devices;
(8) Manual extraction;
(9) artificial lashes including single eyelash extensions;
(10) Facial or body treatment (cleansing, manipulations, masks, and chemical peels);
(11) Aromatherapy;
(12) Make-up application;
(13) Lash lift and brow lamination;
(14) Microneedling;
(15) Dermaplaning; and
(16) Lash and brow tint.

~~(a) To meet the approval of the Board, an esthetician training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of at least 600 hours of instruction in theory and practical application as set forth in this Rule.~~

~~(b) Theory and practical application subjects shall include:~~

~~(1) Anatomy or physiology;~~
~~(2) Infection control;~~
~~(3) Disinfection;~~
~~(4) First aid;~~
~~(5) Chemistry as it relates to esthetics;~~
~~(6) Draping;~~
~~(7) Facial or body treatment (cleansing, manipulations, masks, and chemical peels);~~
~~(8) Hair removal;~~
~~(9) Basic dermatology;~~
~~(10 Skin care machines, electricity, and apparatus;~~
~~(11) Aromatherapy;~~
~~(12) Nutrition;~~
~~(13) Make up or color theory;~~
~~(14) Styles and techniques of esthetics services including:~~
~~(A) Facials;~~
~~(B) Makeup application;~~
~~(C) Performing skin care;~~
~~(D) Hair removal;~~
~~(E) Eyelash extensions;~~
~~(F) Applying brow and lash color;~~
~~(G) Business management; and~~
~~(H) Professional ethics; and~~
~~(15) Board laws, rules and website.~~

~~(c) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students shall be trained on the following performance requirements:~~

~~(1) Infection Control;~~
~~(2) Blood exposure procedure;~~
~~(3) Basic facial;~~
~~(4) Waxing including underarm, lip, eyebrow, leg and bikini;~~

(5) Hair removal with depilatory and tweezers;
(6) Makeup application;
(7) Facials with machines;
(8) Exfoliation;
(9) Facials with LED light;
(10) Facials with high frequency (direct and indirect); and
(11) Lash application.

(d) Each school must develop and use performance evaluation plans for each of the Board required performances listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent, received theory and practical instructions, and passed each of the following performance evaluations prior to performing services on a live model:

(1) Basic facial, including steam;
(2) Waxing;
(3) Lash lift and brow lamination;
(4) Artificial lashes; and
(5) Lash and brow tint.

(e) Certification of performance completions shall be required on the graduation form and Board's application for the examination. Graduation forms shall include the following:

(1) Student name and social security number;
(2) School code;
(3) Course type completed;
(4) Date of course completion;
(5) Number of hours and minutes completed;
(6) School owner name and signature; and
(7) School seal.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0605 MANICURING CURRICULUM

(a) To meet the approval of the Board, a manicurist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 300 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must receive guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

(1) Basic manicure
(2) Basic pedicure;
(3) Sculptured nails including application, fill, and removal; and
(4) Electric file.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

(1) Basic manicure;
(2) Basic pedicure;
(3) Nail tips;
(4) Acrylic overlay (application, repair, fill, and removal);
(5) Sculptured nails (application, repair, fill, and removal);
(6) Gel overlay (application, repair, fill, and removal).
(7) Trimming;
(8) Filing;
(9) Shaping;
(10) Decorating;
(11) Arm and hand manipulation; and
(12) Electric file;

(a) To meet the approval of the Board, a manicurist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of at least 300 hours of instruction in theory and practical application as set forth in this Rule.

(b) Theory and practical application subjects shall include:

(1) Manicuring theory;
(2) Infection control;
(3) First aid;
(4) Trimming;
(5) Filing;
(6) Shaping;
(7) Decorating;
(8) Arm and hand manipulation;
(9) Sculptured and artificial nails (application, repair, fill, and removal);
(10) Pedicuring; and
(11) Styles and techniques for the care, treatment, and decoration of the following:
(A) Fingernails;
(B) Toenails;
(C) Cuticles;
(D) Nail extensions and artificial nails;
(E) Electric file;
(G) Business management;
(H) Professional ethics; and
(I) Board laws, regulations and website.

(c) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students shall be trained on the following performance requirements:

(1) Infection Control;
(2) Blood exposure procedure;
(3) Basic manicure;

~~(4) Basic pedicure;~~
~~(5) Nail tips;~~
~~(6) Acrylic overlay (application, repair, fill, and removal);~~
~~(7) Sculptured nails (application, repair, fill, and removal); and~~
~~(8) Gel overlay (application, repair, fill, and removal).~~

~~(d) Each school must develop and use performance evaluation plans for each of the Board required performances listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Teachers must ensure students follow infection control, tool safety, and safe application of products for all service performances. Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent, received theory and practical instructions, and passed each of the following performance evaluations prior to performing services on a live model:~~

~~(1) Basic manicure with pedicure difference; and~~
~~(2) Sculptured nails including application, fill, and removal.~~

~~(e) Certification of performance completions shall be required on the graduation form and Board's application for the examination. Graduation forms shall include the following:~~

~~(1) Student name and social security number;~~
~~(2) School code;~~
~~(3) Course type completed;~~
~~(4) Date of course completion;~~
~~(5) Number of hours and minutes completed;~~
~~(6) School owner name and signature; and~~
~~(7) School seal.~~

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0606 NATURAL HAIR CARE CURRICULUM

(a) To meet the approval of the Board, a natural hair care specialist training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 300 hours of instruction as defined in 21 NCAC 14T .0612(c).

(b) Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent.

(c) Each school must develop and use required evaluations for each of the Board required services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application and be recorded in the student permanent file. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must received guided theory, demonstration, guided practice, independent theory, and practice, pass the evaluation plan, prior to performing services on a live model:

(1) Three strand overbraid and underbraid
(2) Track and sew weft; and
(3) Blow drying and hot iron.

(d) Each school must develop and use evaluation plans for each of the cosmetic art services listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, client consultation, draping, and safe application services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students must receive guided theory, demonstration, guided practice, independent theory, and practice, and perform the following services:

(1) Twists;
(2) Knots;
(3) Locs;
(4) two strand overlap;
(5) three strand overbraid;
(6) three strand underbraid;
(7) On the scalp three strand braid;
(8) Track and sew weft;
(9) Adding hair extensions;
(10) Shampooing;
(11) Draping;
(12) Wrapping; and
(13) Blowdry and thermal iron.

~~(a) To meet the approval of the Board, a natural hair care styling training course shall begin with infection control and blood exposure procedures as defined in 21 NCAC 14H .0403 and .0404 and consist of 300 hours of instruction in theory and practical application as set forth in this Rule.~~

~~(b) Theory and practical application subjects shall include:~~

~~(1) Infection control;~~
~~(2) Bacteriology;~~
~~(3) Board laws, regulations, website, and licensure scope of practice.~~
~~(4) First aid;~~
~~(5) Shampooing;~~
~~(6) Draping;~~
~~(7) Anatomy;~~
~~(8) Disorders of the hair and scalp;~~
~~(9) Client consultation;~~
~~(10) Twisting;~~
~~(11) Wrapping;~~
~~(12) Extending;~~
~~(13) Locking;~~
~~(14) Blowdry and thermal iron;~~
~~(15) Business management; and~~
~~(16) Professional ethics.~~

~~(c) Performances shall be defined as the systematic completion of all steps for safe and effective cosmetic art services to a client. In addition to the requirements set forth in Paragraph (a) of this Rule all students shall be trained on the following performance requirements:~~

~~(1) Infection Control;~~
~~(2) Blood exposure procedure;~~
~~(3) Twists;~~
~~(4) Knots;~~
~~(5) Locs;~~
~~(6) 2 strand overlap;~~
~~(7) 3 strand overbraid;~~
~~(8) 3 strand underbraid;~~
~~(9) On the scalp 3 strand braid;~~
~~(10) Track and sew weft; and~~
~~(11) Adding hair extensions.~~

~~(d) Each school must develop and use performance evaluation plans for each of the Board required performances listed in this Paragraph. Evaluation plans must include a minimum of infection control, tool safety, draping, and safe application. Teachers must ensure students follow infection control, tool safety, draping, and safe application of products for all service performances. Students must pass the infection control and blood exposure procedures evaluation plan with a score of 100 percent, received theory and practical instructions, and passed each of the following performance evaluations to performing services on a live model:~~

~~(1) Trach and sew weft; and~~

~~(2) Three strand overbraid and underbraid.~~

~~(e) Certification of performance completions shall be required on the graduation form and Board's application for the examination. Graduation forms shall include the following:~~

~~(1) Student name and social security number;~~

~~(2) School code;~~

~~(3) Course type completed;~~

~~(4) Date of course completion;~~

~~(5) Number of hours and minutes completed;~~

~~(6) School owner name and signature; and~~

~~(7) School seal.~~

Authority G.S. 88B-2; 88B-4; 88B-16.

21 NCAC 14T .0607 COSMETOLOGY TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board, a cosmetologist teacher training course shall consist of at least 800 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: ~~observation theory,~~ observation, motivation, ~~business management,~~ student relations, teaching techniques, preparing lesson plans, ~~facilitating student shop internship,~~ preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	400
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving ~~practical~~ demonstrations	400

(b) Trainees shall receive a minimum of 150 hours of guided theory prior to ~~any~~ providing any instruction in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0608 ESTHETIC TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, an esthetician teacher training course shall consist of at least 650 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: ~~observation theory,~~ observation, motivation, ~~business management,~~ student relations, teaching techniques, preparing lesson plans, ~~facilitating student shop internship,~~ preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	325
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving ~~practical~~ demonstrations	325

(b) Trainees shall receive a minimum of 120 hours of guided theory prior to ~~any~~ providing any instruction in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0609 MANICURIST TEACHER TRAINEE CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, a manicurist teacher training course shall consist of at least 320 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: ~~observation theory,~~ observation, motivation, ~~business management,~~ student relations, teaching techniques, preparing lesson plans, ~~facilitating student shop internship,~~ preparing class lectures and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	160
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving ~~practical~~ demonstrations	160

(b) Trainees shall receive a minimum of 115 hours of guided theory prior to ~~any~~ providing any instruction in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0610 NATURAL HAIR CARE TEACHER CURRICULUM

(a) To meet the approval of the Board under the standards set out in these Rules, natural hair care teacher training course shall consist of at least 320 hours of instruction in theory and practical application, divided as follows:

Requirement Description	Hours
Guided and independent Theory: ~~observation theory,~~ observation, motivation, ~~business management,~~ student relations, teaching techniques, preparing lesson plans, ~~facilitating student shop internship,~~ preparing class lectures	160

and presentations, preparing examinations, grading, and G.S. 88B and the rules of the Board	
Practical Application: Conducting guided theory classes from prepared lessons, preparing and giving examinations, and giving ~~practical~~ demonstrations	160

(b) . Trainees shall receive a minimum of 115 hours of guided theory prior to ~~any~~ providing any instruction in a cosmetic art classroom.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0611 ONLINE INSTRUCTION

(a) Online instruction and course hours are accepted by the Board for any cosmetic art curriculum.

~~(b) Online resources, course supplements and internet research may be used during the course of study with the supervision of a cosmetic art teacher within a cosmetic art school.~~

~~(c)~~(b) The school shall determine if a student possesses the skills and comprehension necessary to succeed in an online ~~education~~ instruction environment and maintain in each student's record documentation of the method used to determine the student's skill and comprehension.

~~(d)~~(c) The school shall track and record the student's hours by minute and educational achievements in the online ~~education~~ instruction ~~course(s)~~ and shall provide electronic reports generated by the tracking system to an agent of the Board or its inspector upon request.

~~(e)~~(d) The school shall document the student demonstrates participation in the online education course(s).

~~(f) The school shall administer a test at the end of each online education course. The testing shall be done in person at the school.~~

~~(g)~~(e) Online instruction shall be limited to the independent or guided theory portion only and no more than 50 percent for teacher trainees and 30 percent of the total statutorily required hours for the respective cosmetic art discipline.

~~(h) No practical instruction shall be permitted through online education.~~

~~(i)~~(f) The school shall provide access to technical support for the online educational course or program to students and instructors.

~~(j) The school shall provide students and teachers with access to current reference materials that may include, but are not limited to, such formats as books, periodicals and other written matter, audio visual equipment and materials, digital media, and online education platforms to support the educational course. Equipment for producing digital and paper copies of supplementary instructional materials shall be available.~~

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0612 INSTRUCTION GUIDELINES

(a) The hours earned in the clinic department must be devoted to ~~study and~~ practice and performance completions.

(b) Work in the clinic department may be done on the public.

(c) All instruction in a cosmetic art school shall be in this order:

(1) Guided theory;
(2) Demonstration;
(3) Guided practice;
(4) Independent theory;
(5) Practice;
(6) Evaluation and passage of evaluation; and
(7) Performance.

(d) Infection control and blood exposure required evaluations shall be taught in this order:

(1) Hand washing;
(2) Implement disinfection;
(3) Beginning and end of day infection control;
(4) Blood exposure (self cut); and
(5) Blood exposure (client).

~~(c) All work done by students on the public shall be checked by the cosmetic art teacher as the work is being performed and after the service has been completed so that the teacher may point out errors to the student in order that the errors may be corrected.~~

~~(d) Cosmetic art students shall receive training on theory of any cosmetic art service prior to performing that service.~~

~~(e) Theory work shall include lectures on theory subjects as well as demonstrations, questions and answers on textbooks, written examinations, and in-class practice of procedures and methods.~~

~~(f) Cosmetic art teacher trainees must be enrolled in school to earn hours.~~

~~(g) Cosmetic art schools shall supply each student with a copy of the North Carolina Cosmetic Art Act, Board rules, and the student handbook.~~

~~(h) All of the work outlined in the practice department and the clinic department shall be given to the students through practical demonstrations and lectures, questions and answers on textbooks, and written exam.~~

~~(i)~~(e) A minimum of 10 percent of scheduled attendance time each week shall be dedicated to guided theory, demonstration, and guided practice. ~~spent on theory work as defined in Paragraph (e) of this Rule.~~

~~(j)~~(f) All ~~papers~~ assignments shall be graded and returned to the students.

~~(k)~~(g) Cosmetic art students shall receive training and practice only in the discipline in which they are enrolled.

~~(l) All live model performances on the public shall be done in the clinic department. Mannequin performances and live model performances~~

(h) Performances on other students may be performed in the clinic ~~department~~ or in a room within the school with a cosmetic art station.

~~(m)~~(i) Textbooks shall not be used more than five years if a newer version is available.

~~(n)~~(j) Schools shall provide textbooks and supplementary educational materials and equipment to students.

~~(o)~~(k) A cosmetic art teacher shall not perform clinical services on a client at the cosmetic art school.

~~(p)~~(l) Exams administered in a proctored exam site need not be attended by a cosmetic art teacher.

~~(q)~~(m) Cosmetic art teachers shall use the respective evaluation plan to verify student competency prior to assigning ~~a live model service.~~ a performance.

(n) The school shall provide students and teachers with access to current reference materials that may include, but are not limited to, such formats as books, periodicals and other written matter, audio-visual equipment and materials, digital media, and online

education platforms to support the educational course. Equipment for producing digital and paper copies of supplementary instructional materials shall be available.
(o) Schools must develop lesson plans for guided theory, and demonstrations that integrate Board infection control rules as established in 21 NCAC 14H. with the steps to complete each service as listed in 21 NCAC 14T .0602-.0606.
(p) School owners, teachers, and school administrators shall not make any statement to a member of the public or students either verbally or in writing, stating or implying Board mandated consequences that are not established by the Board Rules or NC General Statutes. A violation of this prohibition is considered practicing or attempting to practice by fraudulent misrepresentation as set forth in 21 NCAC 14P .0108

Authority G.S. 88B-4; 88B-16.

21 NCAC 14T .0613 UNIFORMS AND IDENTIFICATION

(a) Each cosmetic arts school must define what constitutes a uniform for students and acceptable attire for teachers. Students and teachers shall wear the uniform or acceptable attire as defined by the school so that Board members or agents of the Board can identify by sight students and teachers.
(b) Each school's definition of acceptable attire cannot change more than once per year.
(c) Students must wear a name tag identifying student name, cosmetic art ~~discipline and academic status.~~ discipline. At no time shall a student fail to wear a name tag.
(d) Each cosmetic art school may permit students to be out of uniform a maximum of four days per year. Notice to the Board must be submitted prior to any day uniforms will not be worn.
(e) Teachers, guest lecturers, and substitute teachers must wear a name tag with name and position title.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0614 INTERNSHIPS

Schools and cosmetic art shops desiring to implement an internship program shall follow these requirements:

(1) Schools wishing to participate in an internship program must notify the Board of intent to implement a program before credit for an internship may be granted. ~~Cosmetic art shops and student selection criteria must be submitted along with the notification.~~
(2) Schools shall report to the Board all cosmetic art shops contracted and students selected to participate in the program.
(3) Internships may be arranged in various time frames but shall never exceed five percent of a student's training period.
(4) Credit for an internship shall be granted upon submission of student hours verification based on a daily attendance record. Hours must be recorded on a form approved by the school.
(5) Students may be assigned a variety of duties, but client services are restricted. Cosmetology and natural hair care students may provide only shampoo services, manicurist students may only remove nail polish and esthetician students may only drape ~~and prep~~ clients
(6) Students must follow all Board rules and regulations.
(7) A licensed teacher need not be in attendance during this internship.
(8) Students participating in the program shall not receive compensation for duties performed in the cosmetic art shop.
(9) Prior to a student participating in an internship the student must have passed the infection control and blood exposure evaluations.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0615 FIELD TRIPS

(a) Cosmetic art schools shall notify the Board prior to any field trip and record the field trip hours of each student. Cosmetic art educational field trips include the following locations or activities:

(1) cosmetic art shops;
(2) cosmetic art conventions;
(3) competition training;
(4) other schools;
~~(5) state Board Office;~~
(5)~~(6)~~ professional cosmetic art supply store; ~~houses;~~
(6)~~(7)~~ college or Career Day at school;
(7)~~(8)~~ fashion Shows;
(8)~~(9)~~ rest homes or nursing homes;
(9)~~(10)~~ hospitals; and
(10)~~(11)~~ funeral homes.

(b) An instructor shall be present during the educational field trips listed in Paragraph (a) of this Rule for credit to be given to students, with a ratio of one instructor per 25 students present.
(c) The maximum number of hours a student may earn for field trips is 40 hours for cosmetology students, 20 hours for esthetician students, and 10 hours for manicurist or natural hair care students.
(d) Students may earn up to four additional hours of credit for curriculum requirements for interviews for employment at a licensed cosmetic art shop.
(e) Students may not ~~earn credit for~~ perform any service ~~performances completed~~ outside of the school. Students may perform services as part of the school participation in a cosmetic art competition.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0616 ADDITIONAL HOURS

(a) Notwithstanding any other rule in this Subchapter, pursuant to G.S. 88B-18(d) a cosmetologist, apprentice, esthetician, manicurist, natural hair care specialist, or teacher candidate who has failed ~~either~~ the practical section of the examination three times, shall complete the following amounts of study at an approved cosmetic art school before an applicant may reapply:

(1) Cosmetologist ~~100~~ 40 hours;
(2) Apprentice ~~75~~ 40 hours;
(3) Esthetician 40 hours;
(4) Manicurist ~~20~~ 40 hours;

(5) Natural Hair Care Specialist ~~20~~ 40 hours; and
(6) Teacher:
(A) cosmetology ~~100~~ 40 hours;
(B) esthetician ~~80~~ 40 hours; and
(C) manicurist 40 hours.

(b) Schools shall evaluate students returning to complete additional hours in accordance with Paragraph (a) of this Rule and shall provide remedial assistance or training in the areas of deficiency.

(c) Additional hours as required in Paragraph (a) of this Rule may be completed ~~through~~ as online ~~study or instruction.~~ instruction through enrollment in a licensed cosmetic art school.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17; 88B-18.

21 NCAC 14T .0617 TEACHER TRAINEES

(a) A cosmetic art teacher trainee may not perform clinical services on a client at the cosmetic art school.

(b) A cosmetic art teacher trainee shall be supervised by a cosmetology teacher at all times when the trainee is at a cosmetic art school except as set out in Paragraph (c) of this Rule.

(c) A manicurist, natural hair care, or esthetician teacher may supervise a cosmetic art teacher trainee with regard to manicuring, natural hair care, or esthetics.

(d) A cosmetic art teacher trainee program may be a full time program or a part time program. A cosmetic art teacher trainee, however, shall not receive credit for more than 10 hours per day.

(e) Teacher trainees may present lessons as long as the supervising teacher is present in the classroom.

(f) Persons receiving teacher training in a cosmetic art school shall be furnished a teacher's manual and shall spend all of their training time under the direct supervision of a licensed cosmetic art teacher and shall not be left in charge of students or the school at any time. Direct supervision is considered as in-person interactive guidance and advising on teacher training topics by a licensed cosmetic art teacher.

(g) Teacher trainees must be taught how to assess cosmetic art performances using evaluation plans.

(h) Cosmetic art teacher trainees must be enrolled in school to earn hours.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0700 - SCHOOL LICENSURE, OPERATIONS, CLOSING AND RELOCATING SCHOOLS

21 NCAC 14T .0701 SCHOOL OPERATIONS/LICENSURE MAINTENANCE

(a) No individual shall be given credit for any hours earned in a cosmetic art school before the date the school is granted a license, before the student is enrolled, or after graduation or withdrawal of the student without a new enrollment.

(b) All Cosmetic Art schools shall submit hours of operation per cosmetic art discipline to the Board. Any changes to the hours of operation shall be submitted to the Board. A school shall be considered open by the Board when cosmetic art instruction, services, or performances are provided.

(c) Students may be required to clean and disinfect work areas, reception areas, implements, and the dispensary. Students shall not be required to perform maintenance.

(d) All cosmetic art schools shall adhere to all Board Infection Control Rules located in 21 NCAC 14H Infection Control.

(e) Cosmetic art schools may permit students to leave the cosmetic art school during instructional time to visit on campus libraries and other educational resource rooms such as computer labs for research and study under the supervision of a cosmetic art instructor.

(f) Cosmetic art schools shall use the following grading scale ~~as a~~ for minimum passing grades:

Grade A	100-90
Grade B	80-89
Grade C	70-79
Grade F (Fail)	0-69

(g) Cosmetic art schools may adopt a higher grading scale.

~~(g)~~(h) In order to graduate, all students shall meet the minimum school and Board requirements as set forth in Rules .0602-.0610 of this Subchapter.

~~(h)~~(i) Written examination ~~Examinations~~ shall be administered in ~~all subjects of~~ the cosmetic art curriculum.

~~(i)~~(j) Students present at school shall be supervised by a cosmetic art teacher at all times. If a guest lecturer is leading a class, at least one cosmetic art teacher must be present in the lecture.

~~(j)~~(k) All cosmetic art schools shall provide:
(1) One teacher for every 25 students enrolled in the practice department;
(2) One teacher for every 20 students during practical work on live models in the clinic department; and
(3) Each Cosmetic art teacher may have up to five teacher trainees, in addition to the ratios set forth in Subparagraph (j)(1) and (2).

~~(k)~~(l) In theory classes, the teacher student ratio may exceed the ratios established in this Rule.

~~(l)~~ A teacher may administer instruction to up to 10 students ~~enrolled~~ in practice and clinic departments at the same time. A teacher shall not administer instruction to more than 10 students ~~enrolled~~ in practice and clinic departments at the same time.

(m) At no time can any one teacher be simultaneously responsible for teaching students in a theory class and monitoring students in practice or on the clinic floor.

(n) In cases of change in teaching staff, the school shall notify the Board of the change in writing prior to beginning instruction. A change in teaching staff includes any substitution for the regularly scheduled teacher and any change, scheduled or otherwise, in the list of teachers last given to the Board.

(1) All courses in a cosmetic art school shall be taught by ~~a~~ an onsite licensed cosmetology teacher, and student performances completed on the clinic floor must be supervised by an onsite cosmetology teacher, except as follows:
(A) manicuring ~~courses~~ courses, theory, and performances shall be taught by either ~~a~~ an onsite licensed

cosmetology teacher or ~~a~~ an onsite licensed manicurist teacher;

(B) natural hair care ~~courses~~ courses, theory, and performances shall be taught by either ~~a~~ an onsite licensed cosmetology teacher or ~~a~~ an onsite licensed natural hair care teacher;

(C) esthetics ~~courses~~ courses, theory, and performances shall be taught by either ~~a~~ an onsite licensed cosmetology teacher or ~~a~~ an onsite licensed esthetician teacher.

(2) A licensed cosmetologist not licensed as a cosmetology teacher may substitute for a cosmetology, esthetician, natural hair care or manicurist teacher; a licensed manicurist not licensed as a manicurist teacher may substitute for a manicurist teacher; a licensed natural hair care specialist not licensed as a natural hair care teacher may substitute for a natural hair care teacher; and a licensed esthetician not licensed as an esthetician teacher may substitute for an esthetician teacher.

(o) In no event may any cosmetic art licensee substitution last for more than 15 consecutive working days per year per teacher. If any teacher substitution is 16 consecutive days or longer, the school shall provide a new cosmetic art teacher.

(p) Enrolled students may earn a maximum of 10 hours per day per discipline of cosmetic art and a maximum of 48 hours per week per discipline. Online education can be earned in addition to the maximum daily and weekly hours. A student enrolled in more than one cosmetic art discipline may not earn hours or complete performances concurrently.

(q) The Board shall certify student hours for any North Carolina cosmetic art school that is closed. The Board shall not certify student hours between any North Carolina open cosmetic art schools. The Board shall certify student hours earned at North Carolina cosmetic art schools to other state boards and schools open outside of the state of North Carolina as set forth in Rule .0502 of this Subchapter.

Authority G.S. 88B-2; 88B-4; 88B-16.

21 NCAC 14T .0702 TRANSFER OF CREDIT

(a) A student who transfers from one cosmetic art discipline to another cosmetic art discipline shall not receive credit for hours received in the initial curriculum.

(b) Up to 25 percent of all credit earned in an approved esthetician, manicurist or natural hair care teacher training program may be transferred to a cosmetology teacher training program.

(c) A maximum of 160 hours earned in either an esthetician, natural hair care or manicurist teacher training program may be transferred between programs once.

(d) Licensed estheticians, manicurists and natural hair care stylists may request the school apply up to 25 percent of hours required for licensure by G.S. 88B earned toward the cosmetology curriculum.

(e) Licensed cosmetologists may request the school apply up to 50 percent of the hours required for licensure as an esthetician, manicurist, or natural hair care specialist by G.S. 88B toward the esthetician, manicurist, or natural hair care specialist curriculum.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0706 SCHOOL APPROVAL CHANGES AND SCHOOL CLOSING

(a) If the location of a cosmetic art school changes or if there is a transfer of majority ownership of a cosmetic art school, whether by sale, lease, or otherwise, the school owner shall submit a new application for approval in accordance with Rule .0102 of this Subchapter.

(b) License and letters of approval issued to cosmetic art schools are not transferrable, and are valid only for the location, square footage, and enrollment capacity for which issued, and to the owner to whom issued. The letter of approval shall contain the school name, school owner name, school location, date of approval, the signature of the Board members, the amount of approved square footage, and the maximum number of enrollments for which the school has been approved.

(c) Schools intending to close must notify the Board not less than 30 days in advance.

(d) Schools must make provisions for the long term storage of school documents as set forth in Rule .0502 of this Subchapter, and facilitate the retrieval of any school documents upon the request of a student or the Board. Schools shall notify the Board of the contact information for retrieval of any school information.

(e) Schools must facilitate and cooperate in the final inspection and processing of student hours.

(f) If the square footage or instructional layout of a cosmetic art school changes, the school shall notify the Board of the change and submit a diagram of the new instructional layout. Following receipt of the notification of the change in the instructional layout or square footage, a Board inspector shall verify the change. If there is an educational change such as adding an educational program the full curriculum must be submitted to the Board for approval. Schools must verify compliance with mechanical codes when changing or moving equipment.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

SECTION .0800 – SCHOOL INSPECTIONS

21 NCAC 14T .0802 SCHOOL ~~SANITATION~~ INFECTION CONTROL GRADES

Schools shall follow all Board ~~sanitation~~ infection control regulations. Schools shall be issued a grade at each inspection on a grade card provided by the Board.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

21 NCAC 14T .0803 SCHOOL INSPECTIONS

(a) Schools must facilitate and cooperate during all school ~~inspections~~ inspections.

(b) Schools are subject to reevaluation and re-inspection at any ~~time~~ time.

(c) Failure to comply with the laws and rules of the Board is cause to revoke or suspend the school's license/letter of approval.
(d) In addition to such other reports as may be required by the Board, cosmetic art schools shall report to the Board or its authorized agent, upon inspection of the cosmetic art school and at other times upon specific request, the names of all students currently enrolled and the hours and ~~performances~~ evaluation plans completed by each.
(e) The owner ~~or manager~~ of the cosmetic art school or owner's representative shall read each inspection report made of the school by an authorized agent of the Board to determine that the information on the inspection report is correct, shall sign and retain a copy of all inspection reports.
(f) If any part of the information on the report is incorrect, it shall be corrected by the authorized agent of the ~~Board~~ Board.
(g) A school may submit an exception to any inspection report. Such exceptions shall be prepared and signed by the owner ~~or manager~~ and submitted to the Board and shall be attached to the report.
(h) All present student equipment and records shall be made available to inspectors during school inspection.
(i) Cosmetic art schools must maintain copies of lesson plans and evaluation plans and make such copies available to an agent of the Board upon request.

Authority G.S. 88B-2; 88B-4; 88B-16; 88B-17.

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CHAPTER 28 - LANDSCAPE CONTRACTORS LICENSING BOARD

***Notice** is hereby given in accordance with G.S. 150B-21.2 that the Landscape Contractors' Licensing Board intends to amend the rule cited as 21 NCAC 28B .0402.*

Link to agency website pursuant to G.S. 150B-19.1(c): *www.nclclb.com*

Proposed Effective Date: *April 1, 2023*

Public Hearing:
Date: *December 19, 2022*
Time: *10:00 a.m.*
Location: *3901 Barrett Drive, Suite 202, Raleigh, NC 27609*

Reason for Proposed Action: *To allow more time for the licensees and CE course providers to become aware of and understand future changes to the CE course requirements.*

Comments may be submitted to: *Calvin M. Kirven, The North Carolina Landscape Contractors' Licensing Board, 3901 Barrett Dr., Suite 202, Raleigh, NC 27609*

Comment period ends: *January 30, 2023*

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 984-236-1850.

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**

SUBCHAPTER 28B – LICENSING BOARD RULES

SECTION .0400 - CONTINUING EDUCATION

21 NCAC 28B .0402 CONTINUING EDUCATION UNITS

(a) A licensee shall complete in-person seven continuing education units (CEUs) during the year preceding renewal. At least three of the seven CEUs must be technical credits and at least two of the seven CEUs must be business credits. If the information provided to the Board as required by this Section is unclear, the Board may request additional information from a licensee in order to assure compliance with continuing education requirements.
(b) For the purposes of this Rule:
(1) "technical credits" are defined as credits relating to the subject matter of landscape contracting as described in G.S. 89D-11(3) and Rules .0502 through .0511 in this Subchapter. The rules shall be grouped as follows:
(A) Group A: topics covered in Rules .0502, .0503, .0510, and .0511 in this Subchapter;
(B) Group B: topics covered in Rules .0504 and .0506 in this Subchapter;
(C) Group C: topics covered in Rules .0507 through .0509 in this Subchapter;
(D) Group D: topics covered in Rule .0505; and
(2) "business credits" are defined as credits relating to general business practices, including business planning, contracts, liability exposure, human resources, basic accounting, financial statements, and safety.
~~(c) Beginning with renewals filed after August 1, 2022, a licensee shall obtain one technical credit in at least two groups described in Subparagraph (b)(1) of this Rule in each licensing year. A~~

~~licensee shall obtain at least one technical credit in each of the distinct groups described in Subparagraph (b)(1) of this Rule during a consecutive three-year period.~~

~~(d)~~(c) CEUs shall be determined as follows:

Type of Qualifying Activity	Minimum time required for 1 CEU
Live course	50 minutes
Online course	50 minutes
Trade Shows, Field Days, and Tours	4 hours
Green Industry Board Member Service	5 hours maximum (3 technical and 2 business)
Teaching or instructing	1 hour
In-house or Green Industry training	1 hour
NC Landscape Contractors Licensing Board Service	5 hours maximum (3 technical and 2 business)

~~(e)~~(d) No more than two CEU credits shall be given for qualifying teaching or instructing in one year.

~~(f)~~(e) Credit shall not be given in increments of less than .5 CEUs. Breaks in courses shall not be counted towards CEU credit.

~~(g)~~(f) Requests for pre-approval as set forth in Rule .0405 of this Subchapter shall be submitted at least 45 days prior to the first day of the course or event.

~~(h)~~(g) All continuing education shall be taken in-person by the individual receiving credit.

~~(i)~~(h) A licensee shall not take the same CEU course within two consecutive licensing years.

~~(j)~~(i) A licensee licensed less than 12 months shall not be subject to continuing education requirements for the initial renewal date as set forth in this Rule.

Authority G.S. 89D-15(2); 89D-15(4); 89D-15(12); 89D-20(b).

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

Rules approved by the Rules Review Commission at its meeting on October 20, 2022 Meeting.

					REGISTER CITATION TO THE NOTICE OF TEXT
MENTAL HEALTH/DD/SAS, COMMISSION FOR					
Definitions	10A NCAC	26E	.0602*		36:19 NCR
Reporting Requirements	10A NCAC	26E	.0604*		36:19 NCR
Penalties	10A NCAC	26E	.0605*		36:19 NCR
Emergency Plans and Supplies	10A NCAC	27G	.0207*		36:19 NCR
Staff	10A NCAC	27G	.2202*		36:19 NCR
ALARM SYSTEMS LICENSING BOARD					
Renewal or Reinstatement of License	14B NCAC	17	.0204*		36:19 NCR
DIETETICS/NUTRITION, BOARD OF					
Fees	21 NCAC	17	.0113*		37:02 NCR
ELECTROLYSIS EXAMINERS, BOARD OF					
Definitions	21 NCAC	19	.0103		37:02 NCR
Definitions and Overview	21 NCAC	19	.0404*		37:02 NCR
Continuing Education Requirements, License Renewal, Reins...	21 NCAC	19	.0701*		37:02 NCR
Board Approval of Courses	21 NCAC	19	.0702*		37:02 NCR
Computation of Continuing Education Units	21 NCAC	19	.0703*		37:02 NCR
Time Limits on Credit	21 NCAC	19	.0704*		37:02 NCR
Application for Approval of Continuing Education	21 NCAC	19	.0705*		37:02 NCR
Waiver	21 NCAC	19	.0706*		37:02 NCR

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 26E .0602 DEFINITIONS

(a) As used in this Section, the following terms shall have the meanings as specified:

(1) "Controlled substance reporting system (CSRS)" means the reporting system as set forth in Article 5E of Chapter 90.

(2) "ASAP" means the American Society for Automation in Pharmacy.

(3) "DEA" means the Drug Enforcement Administration responsible for enforcing the controlled substances laws and regulations of the United States.

(4) "Delegate Account Holder" means a person designated to review records of the CSRS with the written approval of the Master Account Holder.

(5) "DHHS" means North Carolina Department of Health and Human Services.

(6) "Dispense" means the same as defined in G.S. 90-87.

(7) "Dispenser" means the same as defined in G.S. 90-113.72 and 90-113.73(f).

(8) "Good faith" means an attempt to report the information required by G.S. 90-113.73(b) that was unsuccessful due to a temporary electrical or technological failure impacting the transmission of data to the CSRS.

(9) "Master Account Holder" means a practitioner, as defined in G.S. 90-87, who has current DEA registration.

(A) "Zero Reporting" means the following: instances when a dispenser who, except as provided in G.S. 90-113.73(c) and (d), fails to comply with the reporting provisions of 90-113.73; or

(B) instances when a dispenser does not dispense any Schedule II – IV controlled substances during the previous business day.

(10) "Pharmacist-patient Relationship" means a consensual relationship in which an individual seeks pharmaceutical care from a pharmacist, and the pharmacist affirmatively acts to provide pharmaceutical care, or agrees to do so.
(11) "Prescriber-patient Relationship" means a consensual relationship in which an individual seeks medical care from a prescriber, and the prescriber affirmatively acts to provide medical care, or agrees to do so.
(12) "Data Errors Notification" means a written notification from DHHS to a dispenser of failure to report data as required by G.S. 90-113.73 and of errors related to the submission of that data. Errors occur when information required per Rule 10A NCAC 26E .0604(a) is omitted, incomplete, or submitted late.

(b) Any term not defined in this Section shall have the same definitions as set forth in G.S. 90-87 and 90-113.72.

History Note: Authority G.S. 90-113.76;
Temporary Adoption Eff. January 1, 2007;
Eff. April 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016;
Amended Eff. November 1, 2022.

10A NCAC 26E .0604 REPORTING REQUIREMENTS

(a) Each dispenser shall report the following information to the Controlled Substances Reporting System in accordance with the time frames provided in G.S. 90-113.73:

(1) the dispenser's DEA number;
(2) the name of the patient for whom the controlled substance is being dispensed as well as the patient's:
  (A) full address including apartment number where applicable, city, state, and zip code;
  (B) telephone number; and
  (C) date of birth;
(3) the date the prescription was written;
(4) the date the prescription was filled;
(5) the prescription number;
(6) whether the prescription is new or a refill;
(7) the metric quantity of the drug dispensed;
(8) the estimated days of supply of the dispensed drug, if provided to the dispenser;
(9) the national drug code of the dispensed drug;
(10) the prescriber's DEA number;
(11) the prescriber's national provider identification number, for any prescriber that has one provided, however, a pharmacy shall not be subject to a civil penalty under G.S. 90-113.73(e) for failure to report the prescriber's national provider identification number when it is not received by the pharmacy; and
(12) the method of payment for the prescription.

(b) DHHS shall notify the dispenser of failure to report data as required by G.S. 90-113.73 and any reporting errors related to that submission, in writing, within ten business days of detecting the error.

(c) The dispenser shall correct the error(s) and resubmit the required information, via his or her dispensation software, within ten calendar days of the date of the written notification.

History Note: Authority G.S. 90-113.73;
Eff. November 1, 2022.

10A NCAC 26E .0605 PENALTIES

(a) DHHS shall consider the following factors in determining the amount of each civil penalty assessed against a person who violates Chapter 90, Article 5E:

(1) whether the violation involved an improper attempt to obtain or release information from the CSRS;
(2) whether the person succeeded in improperly obtaining or releasing information from the CSRS;
(3) whether the person committed the violation intentionally, knowingly, or negligently;
(4) the frequency of the violations the person has committed; and
(5) the number of violations the person has committed.

(b) DHHS shall consider these additional factors in determining the amount of civil penalty assessed against a pharmacy that employs dispensers who fail to report information in accordance with G.S. 90-113.73(e):

(1) whether it is a first, second, third, or subsequent violation within a calendar year;
(2) whether it is a continuing violation;
(3) whether the pharmacy has acted in good faith in attempting to report the required information.

History Note: Authority G.S. 90-113.73; 90-113.75;
Eff. November 1, 2022.

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10A NCAC 27G .0207 EMERGENCY PLANS AND SUPPLIES

(a) Each facility shall develop a written fire plan and a disaster plan and shall make a copy of these plans available to the county emergency services agencies upon request. The plans shall include evacuation procedures and routes.

(b) The plans shall be made available to all staff and evacuation procedures and routes shall be posted in the facility.

(c) Fire and disaster drills in a 24-hour facility shall be held at least quarterly and shall be repeated for each shift. Drills shall be conducted under conditions that simulate the facility's response to fire emergencies.

(d) Each facility shall have a first aid kit accessible for use.

History Note: Authority G.S. 122C-26; 143B-147;
Eff. May 1, 1996;
Recodified from 10 NCAC 14V .0205 to 10 NCAC 14V .0207 Eff. January 3, 2001;
Readopted Eff. November 1, 2022.

10A NCAC 27G .2202 STAFF

(a) Each staff member, except student trainees and supervised volunteers, shall be at least 18 years of age.

(b) Each facility shall have a designated program director who has experience working with individuals diagnosed with developmental disabilities, and holds a baccalaureate degree with specialization in administration, education, social work, nursing, psychology, or a related human services field.

(c) A minimum of two staff members shall provide direct child care at all times.

(d) A minimum of one direct care staff member shall be on duty for every five clients.

History Note: Authority G.S. 122C-26; 143B-147;
Eff. May 1, 1996;
Readopted Eff. November 1, 2022.

TITLE 14B - DEPARTMENT OF PUBLIC SAFETY

14B NCAC 17 .0204 RENEWAL OR REINSTATEMENT OF LICENSE

(a) Each applicant for a license renewal shall submit an online renewal application on the website provided by the Board. This online application shall be submitted not less than 30 days prior to expiration of the applicant's current license and shall be accompanied by:

(1) statements of the result of a local statewide criminal history records search by the reporting services service designated by the Board pursuant to G.S. 74D-2.1 for any state where the applicant has resided within the preceding 24 months;

(2) the applicant's renewal fee as set forth in .0203(a)(2); and

(3) proof of liability insurance pursuant to G.S. 74D-9.

(b) No renewal shall be granted more than 90 days after the date of expiration of a license.

(c) Applications for renewal submitted after the expiration date of the license shall be accompanied by the late renewal fee established by Rule .0203 of this Section and shall be submitted not later than 90 days after the expiration date of the license.

(d) If a licensee has maintained a license at least two years and fails to renew the license within 90 days of the expiration date, the license may be re-issued if an online reinstatement application is submitted within one year of the expiration date. The reinstatement application must include the items required in Subparagraphs (a)(1) through (3) of this Rule, the late fee required by Paragraph (c) of this Rule, evidence of compliance with the electrical licensing requirements of Rule .0210 of this Section, and documentation of completion within the previous two years of continuing education as required by Section .0500 of this Chapter. If the license reinstatement is approved, the license period shall be prorated to expire on the date the previous license would have expired, had the license been renewed on time. The licensee shall remain responsible for compliance with the Board's law and the rules of this Chapter during the period of lapse.

(e) The Director shall review and approve or recommend denial of an application for renewal or reinstatement. All recommendations of denial shall be submitted to the Board for a final Board decision.

(f) Members of the armed forces whose licenses are in good standing and to whom G.S. 105-249.2 grants an extension of time to file a tax return shall be granted the same extension of time to pay the license renewal fee and to complete the continuing education requirements prescribed in Section .0500 of this Chapter. A copy of the military order or the extension approval by the Internal Revenue Service or by the North Carolina Department of Revenue shall be furnished to the Board.

History Note: Authority G.S. 74D- 2; 74D-2.1; 74D-5; 74D-5.1; 74D-6; 74D-7; 93B-15;
Eff. January 1, 1995;
Temporary Adoption Eff. May 18, 1995;
Amended Eff. February 1, 2012; July 1, 2010; May 1, 1999; October 1, 1995;
Transferred and Recodified from 12 NCAC 11 .0204 Eff. July 1, 2015;
Amended Eff. April 1, 2018;
Readopted Eff. June 1, 2018;
Amended Eff. November 1, 2022; August 1, 2020; September 1, 2019.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 17 - BOARD OF DIETETICS, NUTRITION

21 NCAC 17 .0113 FEES

The following fees, where applicable, are payable to the Board by credit card, check, or money order. Credit card payments are only accepted electronically via the Board's web-based licensure system. Payments by check or money order may be mailed to: North Carolina Board of Dietetics/Nutrition, 1135 Kildaire Farm Road, Suite 200, Cary, NC 27511. Fees are nonrefundable, except the Board may refund the Issuance Fee when an application is not approved.

Application Fee	$60.00
Issuance Fee	$150.00
License Renewal Fee	$95.00
Late Renewal Fee	$75.00
Examination Fee	$200.00
Provisional License Fee	$35.00
Duplicate License Certificate Fee	$30.00

History Note: Authority G.S. 90-356; 90-364;
Temporary Adoption Eff. March 19, 1992 for a Period of 180 Days to Expire on September 13, 1992;
Eff. June 1, 1992;
Recodified from 21 NCAC 17 .0013 Eff. February 1, 1995;
Amended Eff. July 1, 2003; July 18, 2002; March 1, 1996; February 1, 1995;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;
Amended Eff. November 1, 2022.

CHAPTER 19 – BOARD OF ELECTROLYSIS EXAMINERS

21 NCAC 19 .0103 DEFINITIONS

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. September 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Repealed Eff. November 1, 2022.

21 NCAC 19 .0404 DEFINITIONS AND OVERVIEW

In addition to the terms defined in G.S. 88A, the following terms have the following meanings:

(1) "Alcohol-based hand rub or gel" means a preparation that contains 60 percent to 95 percent ethanol or isopropanol that is designed for application to the hands to reduce the number of viable microorganisms on the hands.

(2) "Antiseptic" means a germicide used on skin or living tissue to inhibit or destroy microorganisms.

(3) "Aseptic technique" means the term used to describe the precautionary measures taken to help reduce the risk of post treatment infections by decreasing the opportunity for microorganisms to enter the body. Precautionary measures include handwashing, disinfection, sterilization of surfaces and instruments, use of protective barriers, containment and disposal of waste, and instrument and surface manipulations that minimize cross contamination.

(4) "Autoclave" means a vessel used for sterilization by the application of saturated steam under pressure and heat.

(5) "Chemical indicator" means a chemically treated paper strip used to monitor parameters of a heat sterilization process by means of a characteristic color change. A chemical indicator does not indicate that sterilization has been achieved, but a chemical indicator indicates that the temperature needed has been attained.

(6) "Cleaning" means the removal of all visible organic material from objects using friction, detergent, and water prior to the disinfection and sterilization processes.

(7) "Contaminated" means the presence of potentially infectious pathogenic microorganisms on surfaces of a objects.

(8) "Continuing education unit" or "CEU" means one contact hour of participation in an organized learning experience that:
   (a) is related to the practice of electrolysis or laser light-based hair reduction;
   (b) is related to the scope of practice of a practitioner of electrolysis or laser light-based hair reduction;
   (c) occurs after the original granting of licensure; and
   (d) is approved by the Board at least 60 days before the event according to the standards set forth in G.S. 88A-13.

(9) "Cross-contamination" means the process by which bacteria or other microorganisms are transferred from one substance or object to another with harmful effect.

(10) "Critical items" means instruments, devices, objects, or environmental surfaces that will come in direct contact with the bloodstream or other normally sterile areas of the body.

(11) "Decontaminate" means to neutralize or remove dangerous substances or germs from an area or object.

(12) "Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy pathogens on a surface or item so that they are no longer capable of transmitting infectious particles and to render the surface or item safe for handling, use, or disposal.

(13) "Disinfect" means to clean with a disinfectant to destroy bacteria.

(14) "Disinfectant" means a chemical agent used on inanimate surfaces and objects to destroy infectious fungi and bacteria, but not necessarily their spores, and is classified into levels of potency as follows:
   (a) "High-level," which is utilized for the reprocessing of semi-critical instruments or devices and includes Food and Drug Administration (FDA) regulated substances such as glutaraldehyde-, chlorine dioxide-hydrogen peroxide, orthophthaldehyde-, and peracetic acid-based formulations;
   (b) "Intermediate-level," which is utilized for disinfecting tips for epilator needles and includes Environmental Protection Agency (EPA) regulated substances such as alcohols containing 70 to 90 percent ethanol or isopropanol, chlorine compounds, and certain phenolic or iodophor preparations as determined by the EPA;
   (c) "Low-level," which is utilized for disinfecting environmental or non-instrument surfaces and includes EPA regulated substances such as quaternary ammonium compounds and certain phenolic or iodophor preparations as determined by the EPA.

(15) "Disinfection" means a procedure that reduces the level of microbial contamination and is classified into the following levels:
  (a) "High-level," which inactivates some, but not necessarily all, bacterial spores. This process will also kill Mycobacterium tuberculosis var. bovis and all microorganisms except for high levels of bacterial spores.
  (b) "Intermediate-level," which does not kill bacterial spores but can kill M. tuberculosis var. bovis, most vegetative bacteria and fungi, as well as viruses such as hepatitis B virus (HBV) and human immunodeficiency virus (HIV);
  (c) "Low-level," which inactivates most bacteria, some viruses, and fungi, but not bacterial spores or Mycobacterium tuberculosis var. bovis.

(16) "Dry heat sterilizer" means a forced air oven-type device designed to sterilize items by exposure to high temperatures for designated exposure periods.

(17) "Environmental surfaces" means surfaces in the electrology treatment room that may contribute to cross-contamination by contact with the electrologist or instruments that will subsequently contact clients.

(18) "Enzyme detergent" means the detergent that helps break down organic soils and fats and suspends particles during cleaning. An enzyme detergent is used as a soaking solution for critical and non-critical instruments and as the detergent used in the ultrasonic device.

(19) "Epilator" means an electrical device used to perform electrolysis.

(20) "Epilator cords" means insulated plastic covered cords used to complete the current circuit between the epilator and the epilator needle or the indifferent electrode.

(21) "Forceps" means the sterilized instruments or "tweezers" used in electrology treatments to lift the treated hair from the follicle.

(22) "Gloves" means coverings for the hands that provide a protective barrier against infections and toxic substances.

(23) "Hand hygiene" means the general term that applies to:
  (a) "Hand washing," the decontamination process for the removal of soil and transient microorganisms from the hands by a vigorous rubbing together of all surfaces of hands lathered with plain soap for at least 15 seconds, followed by rinsing under a stream of water;
  (b) "Antiseptic hand wash," the washing of hands with water and soap or other detergents containing an antiseptic agent;
  (c) "Antiseptic hand rub," the application of an alcohol-based hand rub product, to all surfaces of the hands to reduce the number of microorganisms present; and
  (d) "Hand antisepsis," a preoperative antiseptic hand wash or antiseptic hand rub to eliminate transient microorganisms and reduce resident hand flora.

(24) "Health History Assessment File" means the cumulative and permanent documentation of a client's medical and treatment record that is maintained by the electrologist as set forth in Rule .0409 of this Section.

(25) "Hirsute or Hirsutism" means the excessive growth of hair that is thickened caused by hormonal or biochemical imbalances or genetic predisposition.

(26) "Home study" means an educational activity undertaken by an individual, completed by correspondence or online, and with a certification of completion awarded at the end of the course.

(27) "Hospital-grade disinfectant" means a chemical germicide that is classed in a spectrum of activity as either low-level or intermediate-level, as defined in Item (15) of this Rule, with labeled claims for effectiveness against Salmonella choleraesuis, Staphylococcus aureus, and Pseudomonas aeruginosa.

(28) "Indifferent electrode" means a stainless steel bar held by the client during electrology treatments to complete current circuit with galvanic electrolysis modality or with the use of a timer delay switch in automatic delivery epilators.

(29) "In-person seminar" means continuing education that occurs in a physical location rather than online.

(30) "Instruments" means tools or devices designed to perform a specific function within the field of electrology, such as grasping, holding, or retracting.

(31) "Intact skin" means skin in which the natural protective barrier has not been altered by infection or trauma.

(32) "Microbial" means a minute life form; a microorganism, especially a bacterium that causes disease.

(33) "Nitrile" means non-sterile, latex-free substance from which gloves are manufactured.

(34) "Needle" means the pre-sterilized, disposable wire filament that is inserted into the hair follicle for application of electrical current in electrology.

(35) "Non-intact skin" means skin in which there is a break in the skin's natural integrity, for example, exposed skin that is chapped, abraded, or afflicted with dermatitis.

(36) "Packaging" means a generic term meant to include all types of containment, such as woven or non-woven wraps, paper or film pouches, or rigid container systems.

(37) "Pathogen" means a microorganism or substance capable of producing a disease.

(38) "Phoresis rollers" means sterilized stainless steel rollers used to apply current to skin before or after electrology treatment.

(39) "Plain soap" means a detergent-based cleanser without antimicrobial additives that is used for the physical removal of dirt and transient microorganisms.

(40) "Protective disposable barrier" means a disposable, moisture-resistant covering that reduces the potential for contaminating environmental or medical device surfaces that may be difficult or inconvenient to clean and disinfect routinely, for example, tables, pillows, or hard-to-clean surfaces, such as light handles and epilator surfaces.

(41) "Reprocessing" means the process of cleaning, disinfecting, or sterilizing a reusable instrument that has been used or contaminated in order to be made safe for its intended use.

(42) "Semi-critical items" means instruments, devices, objects, or environmental surfaces that may come in contact with mucous membranes and non-intact skin, but do not ordinarily penetrate body surfaces. Semi-critical items require sterilization or exposure to high-level disinfection as set in Item (41) of this Rule.

(43) "Sharps container" means a manufactured and labeled, leak-proof, rigid, puncture-resistant, durable plastic container into which needles are placed after use and that is designed to be disposed of as an item of medical waste regulated by the North Carolina Department of Environmental Quality.

(44) "Standards" means the level of quality or excellence.

(45) "Sterility assurance file" means the record containing the sterilizer maintenance and use log and culture report from each biological monitor.

(46) "Sterilization" means the process that destroys all forms of microbial life. The methods of sterilization of instruments and items used in the practice of electrology are the dry heat sterilizer or the autoclave.

(47) "Treatment room" means the operatory where electrolysis treatments are performed.

(48) "Ultrasonic cleaner" means a device that uses ultrasonic waves transmitted through the cleaning solution in a mechanical process known as cavitation. The transmitted sound waves produce tiny air bubbles on instrument surfaces that scrub tightly adhering or embedded particles from solid surfaces and remove soil deposits from hard-to-reach areas.

History Note: Authority G.S. 88A-6; 88A-13; 88A-16;
Eff. December 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. November 1, 2022.

21 NCAC 19 .0701 CONTINUING EDUCATION REQUIREMENTS, LICENSE RENEWAL, REINSTATEMENT AND REACTIVATION

(a) The following are requirements for the Board to approve renewals for electrologist or laser hair practitioners:

(1) Each electrologist licensed in this State shall complete 10 CEUs as defined in Rule .0404 of this Chapter per license effective period as a requirement for renewal of the electrology license. Electrologists with 30 or more years of practice without interruption in licensure shall complete 10 CEUs every five years. The first five-year period shall be measured from the issuance date of the license in year 30, and subsequent periods shall be measured from the issuance date in each fifth year thereafter.

(2) A laser hair practitioner licensed in this State shall complete 10 CEUs per license effective period as a requirement for renewal of the laser hair practitioner license.

(3) An electrologist or laser hair practitioner who has been placed on the inactive list by the Board as set forth in G.S. 88A-14 for fewer than five years and desires to return to active status shall present certification of completion of 10 CEUs within the 12 months preceding the reactivation application in satisfaction of the competency requirement of G.S. 88A-14.

(4) An electrologist or laser hair practitioner whose license has been expired for 90 days or more but less than five years shall present certification of completion of 10 CEUs for each license effective period or part of a license effective period that has elapsed since the electrologist's or laser hair practitioner's license was last current, in satisfaction of the competency requirement of G.S. 88A-12. At least 10 of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement.

(5) Not more than 10 CEUs may be carried over to the next license effective period. CEUs earned through home study shall only be carried over to the next license effective period if the following occur:

(A) The education provider records the full name and license number of the attendee;
(B) There is both a host and a monitor administering the education, where the monitor verifies that attendees are present during the presentation;
(C) The attendee has a camera on at all times so that the monitor can verify that the attendee is participating in the presentation;
(D) The education provider records the time the attendee was present during the education; and
(E) The education provider submits verification of the licensee's attendance at the presentation within 30 days of the event to the address in Rule .0101 of this Chapter.

(6) Licensees shall not receive credit from the Board for more than 10 CEUs of home study for continuing education in each license effective period.
(7) In the initial year of licensure, new licensees who take a licensing examination after the sixth month of the calendar year shall not be required to obtain CEUs until the following renewal year.
(8) Over any two sequential license effective periods, the Board shall give credit for no more than five CEUs in the area of business management.
(9) New licensees shall be required to pay for inspections for the upcoming year.
(10) An initial license shall not be issued until an initial inspection has been completed on the practicing office.

(b) The following are requirements for the Board to approve renewals for instructors:

(1) An instructor whose certification has been placed on the inactive list for more than 90 days and fewer than three years shall present certification of completion of 10 CEUs within the 12 months immediately preceding the application for reactivation of certification.
(2) An instructor whose certification has been expired for more than 90 days, but less than three years shall present certification of completion of 10 CEUs for each license effective period or part of a license effective period that has elapsed since the instructor's license was last current. At least 10 of the CEUs offered in satisfaction of a competency requirement shall have been completed within the 12 months immediately preceding the application for reinstatement of certification.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18; Eff. March 1, 1995; Amendment Eff. October 1, 2015; December 1, 2010; Readopted Eff. September 1, 2019; Amended Eff. November 1, 2022.

21 NCAC 19 .0702 BOARD APPROVAL OF COURSES

(a) The Board shall approve a program or course if it is:

(1) in any subject required by 21 NCAC 19 .0601; and
(2) offered by one of the following entities:
(A) a college or university authorized to grant degrees in this State;
(B) a national professional electrolysis or laser hair practice association;
(C) a school or Continuing Education (CE) provider certified by the Board;
(D) American Society of Laser Medicine (ASLM);
(E) American Academy of Dermatology (AAD); or
(F) an entity providing a program of Certified Medical Education (CME).

(b) The applicant or entity offering the program or course shall provide the Board with the information listed in Paragraph (c) of this Rule and shall certify to the Board the names of all electrologists licensed by the Board who attended the program or course and their actual hours of attendance.

(c) The Board shall not approve a program or course without the following information:

(1) Title, location, and date of the course or courses;
(2) Sponsoring entity;
(3) Course objective and outline of each course's content;
(4) Hours of study for each course topic; and
(5) Name, education, and background of each instructor.

(d) An electrologist or laser hair practitioner seeking credit for a program or course offered by an entity not listed in Paragraph (a) of this Rule may request that the Board approve the course by submitting the application for approval of continuing education as set forth in Rule .0705 of this Section.

(e) The Board shall approve a program or course if requested pursuant to Paragraph (d) of this Rule upon finding that it meets the requirements of G.S. 88A-13. When making this finding, the Board shall consider the criteria set forth in The Continuing Education Unit Criteria and Guidelines, current edition, as adopted by the International Association for Continuing Education and Training (IACET) in conjunction with the American Standards National Institute (ANSI) and incorporated herein by reference including subsequent amendments or editions. Copies of The Continuing Education Unit Criteria and Guidelines, current edition, may be obtained for four hundred ninety-five dollars ($495.00) at http://www.IACET.org.

(f) The Board shall notify the electrologist by first-class mail of the Board's findings and decision regarding the request made pursuant to Paragraph (d) of this Rule.

(g) A change in subject matter, length, or instructor of a course requires reapproval by the Board.
(h) The entity offering the program or course shall either provide to the electrologist or directly to the Board certification of the electrologist's actual hours of attendance after the program or course is complete.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. September 1, 2015; December 1, 2010;
Readopted Eff. September 1, 2019;
Amended Eff. November 1, 2022.

21 NCAC 19 .0703 COMPUTATION OF CONTINUING EDUCATION UNITS

(a) To obtain credit as a contact hour of continuing education, the learning experience scheduled for an hour shall occupy at least 50 minutes of the hour.
(b) An electrologist may fulfill the continuing education requirements of Rule .0701 of this Section by completing more than one course if the total equals 10 or more CEUs.
(c) One semester credit hour at a university or college in a course that would enhance the practice of electrology or laser hair practice, such as a course in the endocrine system, shall be equivalent to 10 CEUs. A course may be audited or taken for credit.
(d) An electrologist who teaches in a program or course approved by the Board may obtain CEU credit at the rate of four contact hours for each contact hour of teaching.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Readopted Eff. September 1, 2019;
Amended Eff. November 1, 2022.

21 NCAC 19 .0704 TIME LIMITS ON CREDIT

An electrologist or laser hair practitioner applying for reinstatement under Rule .0203(b) of this Chapter and presenting CEUs in satisfaction of competency requirements may receive credit for any CEUs taken during the time the applicant's license was expired, subject to the requirements of Rule .0701 of this Section.

History Note: Authority G.S. 88A-6; 88A-12; 88A-13; 88A-18;
Eff. March 1, 1995;
Amended Eff. December 1, 2010;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018;
Amended Eff. November 1, 2022.

21 NCAC 19 .0705 APPLICATION FOR APPROVAL OF CONTINUING EDUCATION

(a) An application for approval of continuing education as set forth in Rule .0702(d) of this Section shall include the following in his or her application:

(1) the application date;
(2) the sponsoring entity offering the continuing education;
(3) the name of the speakers or presenters;
(4) the title of the course;
(5) the location of the course;
(6) the date of the course;
(7) the number of hours of study;
(8) the course objectives and a summary of the course content;
(9) the educational or professional background of the speakers or presenters, or a copy of the curricula vitae of the speakers or presenters; and
(10) a summary of the learning outcomes of the course.

(b) An applicant shall submit the form to the address in Rule .0101 of this Chapter at least two months before the course-registration date.
(c) Any change in subject matter, length, or instructor of a course shall require a new application.
(d) The application form is available at the website address listed in Rule .0101 of this Chapter.
(e) The application form shall be submitted as a fillable PDF and shall not be submitted as a handwritten form.

History Note: Authority G.S. 88A-6; 88A-13;
Eff. November 1, 2022.

21 NCAC 19 .0706 WAIVER

The Board may waive any rule in this Chapter that is not statutorily required if a licensee, or applicant for license or certification, submits a written request to the address in Rule .0101 of this Chapter. Factors the Board shall use in determining whether to grant the waiver are:

(1) degree of disruption to the Board;
(2) cost to the Board;
(3) degree of benefit to the public;
(4) whether the requesting party had control over the circumstances that required the requested waiver;
(5) notice to and opposition by the public, provided that this notice does not conflict with laws that would prohibit disclosure of information, such as the Health Insurance Portability and Accountability Act or the North Carolina Identity Theft Protection Act;
(6) need for the waiver; and
(7) previous requests for waivers submitted from the requesting party.

History Note: Authority G.S. 88A-6; 150B-19(6);
Eff. November 1, 2022.

This Section contains information for the meeting of the Rules Review Commission December 15, 2022 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	**Appointed by House**
Jeanette Doran (Chair)	Andrew P. Atkins (1st Vice Chair)
Robert A. Bryan, Jr. (2nd Vice Chair)	Wayne R. Boyles, III
Jay R. Hemphill	Barbara A. Jackson
Jeff Hyde	Randy Overton
Robert A. Rucho	Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
Lawrence Duke	984-236-1938
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934

RULES REVIEW COMMISSION MEETING DATES

December 15, 2022	February 16, 2023
January 19, 2023	March 16, 2023

AGENDA
RULES REVIEW COMMISSION
Thursday, December 15, 2022, 9:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

I. Ethics reminder by the chair as set out in G.S. 138A-15(e)

II. Approval of the minutes from the last meeting

III. Follow-up matters
- A. Department of Administration - 01 NCAC 05A .0112; 05E .0101, .0102, .0103, .0104, .0105, .0106 (Peaslee)
- B. Structural Pest Control Committee – 02 NCAC 34 .0904 (Peaslee)
- C. State Board of Elections - 08 NCAC 04 .0308, .0309 (Peaslee)
- D. Medical Care Commission - 10A NCAC 13B .3801, .3903, .4103, .4104, .4106, .4305, .4603, .4801, .4805, .5102, .5105, .5406, .5408, .5411 (Liebman)
- E. Sheriffs' Education and Training Standards Commission - 12 NCAC 10B .0713 (Peaslee)
- F. Environmental Management Commission - 15A NCAC 02B .0208, .0212, .0214, .0215, .0216, .0218 (Duke)
- G. Environmental Management Commission - 15A NCAC 02H .1301, .1401, .1402, .1403, .1404, .1405 (Liebman)
- H. Coastal Resources Commission - 15A NCAC 07H .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0601, .0603, .0604; 07I .0406, .0504, .0506, .0508, .0511, .0602, .0702; 07J .0203, .0204, .0206, .0207, .0208, .0210, .0312 (Liebman)
- I. Coastal Resources Commission - 15A NCAC 07H .2305 (Duke)
- J. Coastal Resources Commission - 15A NCAC 07M .0201, .0202, .0401, .0402, .0403, .0503, .0601, .0701, .0703, .0704, .0801, .0802, .1001, .1002, .1101, .1102, .1201, .1202 (Peaslee)
- K. Behavior Analyst Licensure Board - 21 NCAC 05 .0101, .0201, .0202, .0203, .0301, .0401, .0402, .0403, .0501, .0601, .0602, .0603 (Liebman)
- L. Board of Dietetics/Nutrition - 21 NCAC 17 .0101, .0103, .0104, .0106, .0108, .0110, .0112, .0114, .0116, .0201, .0202, .0203, .0302, .0303, .0304, .0401, .0402, .0403, .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509, .0510, .0511, .0512, .0513, .0514, .0515, .0516, .0517 (Duke)

IV. Review of Filings (Permanent Rules) for rules filed between October 21, 2022 through November 21, 2022

- Medical Care Commission (Duke)
- DHHS- Division of Health Service Regulation (Peaslee)
- Industrial Commission (Duke)
- Sheriffs' Education and Training Standards Commission (Peaslee)
- Private Protective Services Board (Peaslee)
- Environmental Management Commission (Duke)
- Wildlife Resources Commission (Duke)
- TSERS and LGERS Board of Trustees 02A (Liebman)
- TSERS Board of Trustees 02B (Liebman)
- LGERS Board of Trustees 02C (Liebman)
- TSERS Board of Trustees 02F (Duke)
- TSERS and LGERS Board of Trustees 02L, 02M (Duke)
- LGERS Board of Trustees 02N (Duke)
- Board of Funeral Service (Peaslee)
- Board of Examiners in Optometry (Peaslee)
- Board of Examiners for Engineers and Surveyors (Peaslee)

V. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting

VI. Existing Rules Review

VII. Commission Business
- Review of 2023 RRC meeting dates
- Proposed changes to 26 NCAC 05 .0100 - .0200
- Pre-review Discussion
    - Next meeting: January 19, 2023

Commission Review

Log of Permanent Rule Filings
October 21, 2022 through November 21, 2022

MEDICAL CARE COMMISSION

The rules in Subchapter 13F concern licensing of homes for the aged and infirm and include definitions (.0100); licensing (.0200); physical plant (.0300); staff qualification (.0400); staff orientation training, competency and continuing education (.0500); staffing (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medication (.1000); Resident's funds and refunds (.1100); policies; records and reports (.1200); special care units for alzheimer and related disorders (.1300); special care units for mental health disorders (.1400); use of physical restraints and alternatives (.1500); rated certificates (.1600); administrator certification and renewal (.1700); and infection prevention and control (.1800).

Nutrition and Food Service — 10A NCAC 13F .0904
Readopt with Changes*

The rules in Subchapter 13G concern licensing of family care homes including definitions (.0100); licensing (.0200); the building (.0300); staff qualifications (.0400); staffing orientation, training, competency and continuing education (.0500); staffing of the home (.0600); admission and discharge (.0700); resident assessment and care plan (.0800); resident care and services (.0900); medications (.1000); management and resident's funds and refunds (.1100); policies, records and reports (.1200); use of physical restraints and alternatives (.1300); rated certificates (.1600); and infection prevention and control (.1700)..

Nutrition and Food Service — 10A NCAC 13G .0904
Readopt with Changes*

HHS - HEALTH SERVICE REGULATION, DIVISION OF

The rules in Subchapter 14C are Certificate of Need regulations including general provisions (.0100); applications and review process (.0200); exemptions (.0300); appeal process (.0400); enforcement and sanctions (.0500); and criteria and standards for nursing facility or adult care home services (.1100), intensive care services (.1200), pediatric intensive care services (.1300), neonatal services (.1400), hospices, hospice inpatient facilities, and hospice residential care facilities (.1500), cardiac catheterization equipment and cardiac angioplasty equipment (.1600), open heart surgery services and heart-lung bypass machines (.1700), diagnostic centers (.1800), radiation therapy equipment (.1900), home health services (.2000), surgical services and operating rooms (.2100), end stage renal disease services (.2200), computed tomography equipment (.2300), immediate care facility/mentally retarded (ICF/MR) (.2400), substance abuse/chemical dependency treatment beds (.2500), psychiatric beds (.2600), magnetic resonance imaging scanner (.2700), rehabilitation services (.2800), bone marrow transplantation services (.2900), solid organ transplantation services (.3000), major medical equipment (.3100), lithotriptor equipment (.3200), air ambulance (.3300), burn intensive care services (.3400), oncology treatment centers (.3500), gamma knife (.3600), positron emission tomography scanner (.3700), acute care beds (.3800), gastrointestinal endoscopy procedure rooms in licensed health service facilities (.3900), and hospice inpatient facilities and hospice residential care facilities (.4000).

Performance Standards — 10A NCAC 14C .1102
Readopt with Changes*

Definitions — 10A NCAC 14C .2001
Readopt with Changes*

Performance Standards — 10A NCAC 14C .2003
Readopt with Changes*

Definitions — 10A NCAC 14C .2801
Readopt with Changes*

Performance Standards — 10A NCAC 14C .2803
Readopt with Changes*

Definitions — 10A NCAC 14C .3801
Readopt with Changes*

Performance Standards — 10A NCAC 14C .3803
Readopt with Changes*

Definitions — 10A NCAC 14C .4001
Readopt with Changes*

Performance Standards — 10A NCAC 14C .4003
Readopt with Changes*

INDUSTRIAL COMMISSION

The rules in Subchapter 23G concern the North Carolina Industrial Commission rules for mediated settlement and neutral evaluation conferences.

Duties of Parties, Representatives, and Attorneys — 11 NCAC 23G .0104
Amend*

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); and firearms in-service training and re-qualification (.2100).

Telecommunicator Certification Course — 12 NCAC 10B .1302
Amend*

PRIVATE PROTECTIVE SERVICES BOARD

The rules in Chapter 16 are from the Private Protective Services Board and cover organization and general provisions (.0100); licenses and trainee permits (.0200); security guard patrol and guard dog service (.0300); private investigator: electronic countermeasures (.0400); polygraph (.0500); psychological stress evaluator (PSE) (.0600); unarmed security guard registration (.0700); armed security guard firearm registration permit (.0800); trainer certificate (.0900); recovery fund (.1000); training and supervision for private investigator associates (.1100); continuing education (.1300); and armed armored car service guards firearm registration permit (.1400).

Definitions 14B NCAC 16 .0103
Amend*

Training Requirements for Armed Security Guards 14B NCAC 16 .0807
Amend*

ENVIRONMENTAL MANAGEMENT COMMISSION

The rules in Subchapter 2E concern water use registration and allocation including general provisions (.0100); capacity use area No. 1 (.0200); registration of water withdrawals and transfers (.0300); regulation of surface water transfers (.0400); central coastal plain capacity use area (.0500); and water use during drought and water supply emergencies (.0600).

Applicability 15A NCAC 02E .0401
Readopt with Changes*

Definitions 15A NCAC 02E .0402
Readopt with Changes*

Applicability 15A NCAC 02E .0403
Adopt*

Notifications 15A NCAC 02E .0404
Adopt*

Environmental Documents 15A NCAC 02E .0405
Adopt*

Petition 15A NCAC 02E .0406
Adopt*

Settlement Mediation 15A NCAC 02E .0407
Adopt*

Final Determination 15A NCAC 02E .0408
Adopt*

Emergency Transfers 15A NCAC 02E .0409
Adopt*

WILDLIFE RESOURCES COMMISSION

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

Safety Equipment 15A NCAC 10F .0201
Amend*

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES/LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

The rules in Chapter 2 concern retirements systems.

The rules in Subchapter 2A are divisional rules including organizational rules (.0100); rule-making procedures (.0200); declaratory rulings (.0300); contested case procedures (.0400); and general procedures (.0500).

Organization: Authority Amend*	20	NCAC 02A .0101
Exercise of Authority Amend*	20	NCAC 02A .0102
Delegation of Authority to Director Readopt without Changes*	20	NCAC 02A .0103
Exercise of Employer Options Readopt without Changes*	20	NCAC 02A .0104
Establishment of Procedural Rights Amend*	20	NCAC 02A .0201
Definitions Amend*	20	NCAC 02A .0202
Establishment of Procedural Rights Readopt with Changes*	20	NCAC 02A .0301
Definitions Amend*	20	NCAC 02A .0302
Reconsideration of Declaratory Rulings Readopt/Repeal*	20	NCAC 02A .0303
Establishment of Procedural Rights Readopt with Changes*	20	NCAC 02A .0401
Dual Membership - Computation of Service and Benefits Amend*	20	NCAC 02A .0503
Direct Deposit of Monthly Benefit Payments Readopt without Changes*	20	NCAC 02A .0504
Administrative Fees for Service Purchasers Adopt*	20	NCAC 02A .0505

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

The rules in Subchapter 2B concern the teachers' and state employees' retirement system including general provisions (.0100); administration (.0200); beneficiaries (.0300) employer contributions (.0400); types of retirement (.0500); leaves of absence (.0700); military service (inchoate rights only) (.0800); out-of-state service (inchoate rights only) (.0900) prior service (.1000); voluntary withdrawn contributions (.1100); and delayed purchase of service credits (.1200).

General Information Amend*	20	NCAC 02B .0101
Actuarial Tables: Rates and Assumptions Readopt with Changes*	20	NCAC 02B .0202
Medical Board Readopt with Changes*	20	NCAC 02B .0210
Optional Retirement Program Readopt without Changes*	20	NCAC 02B .0211
Disability Retirement Allowance Defined Repeal*	20	NCAC 02B .0213
Designation Readopt without Changes*	20	NCAC 02B .0301
Principal Beneficiary Readopt with Changes*	20	NCAC 02B .0302
Contingent Beneficiary Readopt with Changes*	20	NCAC 02B .0303
No Living Beneficiary Readopt with Changes*	20	NCAC 02B .0304
Beneficiary Who I Minor	20	NCAC 02B .0305

Readopt with Changes*		
Change in Beneficiary Readopt with Changes*	20	NCAC 02B .0307
Special Rule: Beneficiary Before July 1, 1967 Readopt without Changes*	20	NCAC 02B .0308
Refunds Readopt with Changes*	20	NCAC 02B .0401
Forwarding Of Employer Contributions Readopt without Changes*	20	NCAC 02B .0402
Due Date Of Contributions Readopt without Changes*	20	NCAC 02B .0404
Anti-Pension Spiking Contribution-Based Benefit Cap Facto... Repeal*	20	NCAC 02B .0405
Disability Retirement Examination Readopt without Changes*	20	NCAC 02B .0501
Disability Retirement Reports Readopt without Changes*	20	NCAC 02B .0502
Fees: Independent Medical Exam-Disability Retirements Readopt/Repeal*	20	NCAC 02B .0503
Interest Credits Readopt without Changes*	20	NCAC 02B .0504
Pensions Readopt without Changes*	20	NCAC 02B .0510
Educational Leaves of Absence Readopt with Changes*	20	NCAC 02B .0701
Workers' Compensation Leaves of Absence Readopt with Changes*	20	NCAC 02B .0706
Fee Readopt/Repeal*	20	NCAC 02B .0801
Qualifying for Credit Readopt without Changes*	20	NCAC 02B .0802
Computation of Cost Amend*	20	NCAC 02B .0803
Civil Service Participation Readopt without Changes*	20	NCAC 02B .0804
Service Connected Disability Readopt without Changes*	20	NCAC 02B .0805
Recalculation of Benefits Readopt with Changes*	20	NCAC 02B .0806
Change in Benefits Readopt without Changes*	20	NCAC 02B .0807
Restoring Membership Readopt without Changes*	20	NCAC 02B .0810
Fee Readopt/Repeal*	20	NCAC 02B .0901
Qualifying for Credit Readopt without Changes*	20	NCAC 02B .0902
Definition Readopt without Changes*	20	NCAC 02B .0903
Computation of Cost Readopt without Changes*	20	NCAC 02B .0904
Recalculation of Benefits	20	NCAC 02B .0905

Readopt with Changes*

Change in Benefits 20 NCAC 02B .0906
Readopt without Changes*

Prior Service with General Assembly 20 NCAC 02B .1003
Readopt/Repeal*

Temporary Service Purchase (Inchoate Rights Only) 20 NCAC 02B .1004
Readopt with Changes*

Temporary Service Purchase: Full Actuarial Liability 20 NCAC 02B .1005
Readopt/Repeal*

Part-Time Service Purchase: Full Actuarial Liability 20 NCAC 02B .1006
Readopt with Changes*

Local Government Service Purchase: Full Actuarial Liability 20 NCAC 02B .1007
Readopt/Repeal*

Fee 20 NCAC 02B .1101
Readopt/Repeal*

Qualification 20 NCAC 02B .1102
Readopt/Repeal*

Recalculation of Benefits 20 NCAC 02B .1104
Readopt/Repeal*

Definitions 20 NCAC 02B .1204
Readopt/Repeal*

Computation of Cost 20 NCAC 02B .1205
Readopt/Repeal*

Special Rule for Retired Applicants 20 NCAC 02B .1207
Readopt/Repeal*

LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

The rules in Subchapter 2C concern the local government employees' retirement system including general provisions (.0100); administration (.0200); beneficiaries (.0300); contributions (.0400); disability retirement (.0500); leaves of absence (.0700); military service (inchoate rights only) (.0900); out-of-state service (inchoate rights only) (.1000); retirement allowances (.1200); voluntary withdrawn contributions (.1300); and delayed purchase of service credits (.1500).

General Information 20 NCAC 02C .0101
Amend*

Actuarial Tables: Rates and Assumptions 20 NCAC 02C .0201
Readopt with Changes*

Facility of Payment 20 NCAC 02C .0204
Readopt without Changes*

Medical Board 20 NCAC 02C .0205
Readopt with Changes*

Designation 20 NCAC 02C .0301
Readopt without Changes*

Principal Beneficiary 20 NCAC 02C .0302
Readopt with Changes*

No Living Beneficiary 20 NCAC 02C .0303
Readopt without Changes*

Payment to Beneficiaries 20 NCAC 02C .0304
Readopt with Changes*

Beneficiary Change 20 NCAC 02C .0306
Readopt with Changes*

Contingent Beneficiary 20 NCAC 02C .0307

Adopt*

Employer's Contributions Readopt without Changes*	20	NCAC 02C .0402
Refunds Readopt with Changes*	20	NCAC 02C .0403
Due Date of Contributions Readopt without Changes*	20	NCAC 02C .0404
Anti-Pension Spiking Contribution-Based Benefit Cap Facto... Repeal*	20	NCAC 02C .0405
Disability Examination Readopt without Changes*	20	NCAC 02C .0501
Disability Retirement Reports Readopt without Changes*	20	NCAC 02C .0502
Fees: Independent Medical Exam-Disability Retirements Readopt/Repeal*	20	NCAC 02C .0503
Reinstatement to Active Service Readopt without Changes*	20	NCAC 02C .0504
Workers' Compensation Leaves of Absence Readopt with Changes*	20	NCAC 02C .0704
Leave Readopt without Changes*	20	NCAC 02C .0901
Fee Readopt/Repeal*	20	NCAC 02C .0902
Computation of Cost Amend*	20	NCAC 02C .0904
Civil Service Program Readopt without Changes*	20	NCAC 02C .0906
Exclusion Readopt without Changes*	20	NCAC 02C .0907
Recalculation of Benefits Readopt without Changes*	20	NCAC 02C .0908
Change in Benefits Readopt without Changes*	20	NCAC 02C .0909
Fee Readopt/Repeal*	20	NCAC 02C .1001
Qualifying for Credit Readopt without Changes*	20	NCAC 02C .1002
Other Governmental Subdivision Readopt without Changes*	20	NCAC 02C .1003
Computation of Cost Readopt without Changes*	20	NCAC 02C .1004
Recalculation of Benefits Readopt with Changes*	20	NCAC 02C .1006
Change in Benefits Readopt without Changes*	20	NCAC 02C .1007
Service Retirement Readopt/Repeal*	20	NCAC 02C .1201
Fee Readopt/Repeal*	20	NCAC 02C .1301
Qualifying for Credit Readopt/Repeal*	20	NCAC 02C .1302
Application of Section	20	NCAC 02C .1501

Readopt/Repeal*

Definitions 20 NCAC 02C .1503
Readopt/Repeal*

Computation of Cost 20 NCAC 02C .1504
Readopt/Repeal*

Extent of Service to be Purchased 20 NCAC 02C .1505
Readopt/Repeal*

Special Rule for Retired Applicants 20 NCAC 02C .1506
Readopt/Repeal*

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

The rules in Subchapter 2F concern the consolidated judicial retirement system.

General Information 20 NCAC 02F .0101
Readopt without Changes*

Actuarial Tables: Rates and Assumptions 20 NCAC 02F .0104
Readopt with Changes*

Final Compensation for Three-Fourths Limitation 20 NCAC 02F .0107
Readopt without Changes*

Full Actuarial Cost 20 NCAC 02F .0108
Readopt/Repeal*

TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES/LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

The rules in Subchapter 2L concern separate insurance benefit plan for state and local governmental law enforcement officers including general provisions (.0100); participation (.0200); and benefits (.0300).

General Information 20 NCAC 02L .0101
Readopt without Changes*

Definitions 20 NCAC 02L .0103
Readopt with Changes*

Retired Members 20 NCAC 02L .0202
Readopt/Repeal*

Accident and Hospital Benefits 20 NCAC 02L .0302
Readopt/Repeal*

The rules in Subchapter 2M concern contributory death benefit for retired members including definitions and general provisions (.0100); election and cancellation of coverage (.0200); and contributions and benefits.

Definitions 20 NCAC 02M .0101
Readopt with Changes*

Agency and Authority of Director 20 NCAC 02M .0102
Amend*

Time and Date 20 NCAC 02M .0104
Repeal*

Eligibility to Elect Coverage 20 NCAC 02M .0201
Amend*

When First Eligible 20 NCAC 02M .0202
Amend*

Reinstatement 20 NCAC 02M .0206
Amend*

Contribution Rates 20 NCAC 02M .0301

Amend*

Member Contribution 20 NCAC 02M .0302
Amend*

Payment of Contribution 20 NCAC 02M .0303
Amend*

Amount of Benefit Payable 20 NCAC 02M .0304
Repeal*

Payment of Interest on Benefit 20 NCAC 02M .0305
Amend*

Benefits Payable after Cancellation 20 NCAC 02M .0307
Amend*

LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM BOARD OF TRUSTEES

The rules in Subchapter 2N concern the organization (.0100) and general provisions (.0200) of the firemen's and rescue squad workers' pension fund.

Office of The Director 20 NCAC 02N .0106
Amend*

Divisional Rules 20 NCAC 02N .0108
Readopt without Changes*

Applying for Membership 20 NCAC 02N .0208
Readopt with Changes*

Military Service 20 NCAC 02N .0215
Readopt with Changes*

Retirement Benefits 20 NCAC 02N .0218
Readopt/Repeal*

Refunds of Deceased Members' Payments 20 NCAC 02N .0219
Readopt without Changes*

FUNERAL SERVICE, BOARD OF

The rules in Subchapter 34B are funeral service rules including rules relating to resident trainees (.0100); examinations (.0200); licensing (.0300); continuing education (.0400); out-of-state licensees (.0500); funeral establishments (.0600); and preparation of dead bodies (.0700).

Continuing Education Program 21 NCAC 34B .0408
Amend*

The rules in Subchapter 34D are preneed funeral contract rules including general provisions (.0100); licensing (.0200); operations (.0300); and preneed recovery fund (.0400).

Preneed Sales License 21 NCAC 34D .0202
Amend*

OPTOMETRY, BOARD OF EXAMINERS IN

The rules in Subchapter 42A concern the organization of the board.

Contacting the Board 21 NCAC 42A .0101
Amend*

ENGINEERS AND SURVEYORS, BOARD OF EXAMINERS FOR

The rules in Chapter 56 concern the organization of the board (.0100); instructional programs (.0300); records and reports of the board, retention and dispositions (.0400); professional engineer (.0500); professional land surveyor (.0600); rules of professional conduct (.0700); firm registration (.0800); general business entities (.0900); temporary permit (.1000); seal (.1100); rulemaking proceedings (.1200); board disciplinary procedures (.1300); contested cases (.1400); fees (.1500); standards of practice for land surveying in North Carolina (.1600); and continuing professional competency (.1700).

Disbursement of Funds Amend*	21	NCAC	56	.0303
Requirements for Licensing Amend*	21	NCAC	56	.0601
Surveyor Intern Certificate Adopt*	21	NCAC	56	.0608
Definitions Amend*	21	NCAC	56	.1702
Requirements Amend*	21	NCAC	56	.1703
Units Amend*	21	NCAC	56	.1704
Determination of Credit Amend*	21	NCAC	56	.1705
Exemptions Amend*	21	NCAC	56	.1707
Sponsors Amend*	21	NCAC	56	.1713