



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> NC Wildlife Resources Commission
<b>2. Rule citation &amp; name:</b> 15A NCAC 10F .0317 Stanly County
<b>3. Action:</b> <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal
<b>4. Was this an Emergency Rule:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Effective date:</b> 7/30/19
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: 3/16/20 b. Proposed Temporary Rule published on the OAH website: 3/19/20 c. Public Hearing date: 4/8/20 d. Comment Period: 3/23/20 - 4/17/20 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 3/18/2020 f. Adoption by agency on: 5/7/20 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b>  <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input checked="" type="checkbox"/> Other: G.S. 150B-21.1(a)(7)  <b>Explain:</b> A no wake zone, shore to shore, within 85 yards north and south of the NC Hwy 24/27/73 bridge eastbound and westbound spans, otherwise known as the James B. Garrison Bridge, is needed to mitigate water safety hazards during a NCDOT bridge construction project. Additionally, the temporary rule includes a no wake zone surrounding a boathouse and marina at 712 Berry Hill Drive in Norwood, NC. Increased boater activity surrounding newer commercial activities at this marina necessitates this amendment.  The WRC has statutory authority (G.S. 150B-21.1(a)(7)) to establish no wake zones through temporary rulemaking procedures.

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

In the summer of 2019, the NCDOT and PCL Civil Construction began a large-scale project on the James B. Garrison Bridge. This project includes the use of cranes, barges, construction curtains and other materials that pose a hazard to boaters. Furthermore, boaters proceeding at normal boating speed through this section could endanger the contractors of the project. A no wake zone (NWZ) is needed to mitigate these potential water safety hazards. The construction project is on-going with a tentative Spring 2021 completion date.

The temporary amendments proposed in this filing represent a continuation of temporary amendments that became effective October 1, 2019, which were initially emergency amendments effective July 30, 2019.

Adherence to the notice and hearing requirements of permanent rulemaking remains contrary to the public's interest and safety. The nature of bridge/road construction presents significant timing and scheduling difficulties. Projects are sometimes delayed or canceled. Also, as was the case with this NWZ, many times it is not known if a NWZ will be necessary until the project has commenced. At that point, if needed, the NWZ must be established as quickly as possible for public safety.

Furthermore, adhering to the notice and hearing requirements of permanent rulemaking would then require the repeal of the now unnecessary NWZ on the back end (six to eight months of additional rulemaking by the agency). The continuation of the NWZ through temporary rulemaking is best for public safety and is in the public's best interest.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Carrie Ruhlman

**Phone:**

919-707-0011

**E-Mail:**

carrie.ruhlman@ncwildlife.org

**Agency contact, if any:**

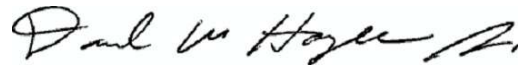
Michael Smallwood

**Phone:**

919-707-0014

**E-Mail:** michael.smallwood@ncwildlife.org

**10. Signature of Agency Head\*:**



**\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:**

David Hoyle, Jr.

**Title:**

Chairman

**E-Mail:** davidwhoylejr@gmail.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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1 15A NCAC 10F .0317 is amended under temporary procedures as follows:

2  
3 **15A NCAC 10F .0317 STANLY COUNTY**

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

5 (1) ~~Narrows Reservoir, otherwise known as Badin Lake; and Badin Lake.~~

6 (2) ~~Lake Tillery: Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W.~~

7 (2) Lake Tillery.

8 (A) Turner Beach Cove shore to shore, south of a point at 35.22529 N, 80.09318 W.

9 (B) The waters within 50 yards of the fuel docks at the Boathouse and Marina at 712 Berry  
10 Hill Drive in Norwood.

11 (b) Speed Limit Near Ramps. No person shall operate a vessel at greater than no-wake speed within 50 yards of any  
12 public boat launching ramp while on the waters of a regulated area described in Paragraph (a) of this Rule.

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

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

17 (e) Placement of Markers. The Board of Commissioners of Stanly County shall be the designated agency for  
18 placement of markers implementing this Rule.

19 (f) Notwithstanding Paragraphs (a) through (e) of this Rule, no person shall operate a vessel at greater than no-wake  
20 speed in the waters of Lake Tillery shore to shore, within 85 yards north and 85 yards south of the NC Hwy 24/27/73  
21 bridge eastbound and westbound spans, otherwise known as the James B. Garrison Bridge. The North Carolina  
22 Wildlife Resources Commission shall be the designated agency for placement and maintenance of markers for this  
23 regulated area.

24  
25 *History Note: Authority G.S. 75A-3; 75A-15;*

26 *Eff. February 1, 1976;*

27 *Amended Eff. July 1, 1995; March 25, 1978; November 1, 1977;*

28 *Temporary Amendment Eff. June 1, 1998;*

29 *Amended Eff. July 1, 2000; April 1, 1999; July 1, 1998;*

30 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*  
31 *6, 2016;*

32 *Amended Eff. October 1, 2018;*

33 *Emergency Amendment Eff. July 30, 2019;*

34 *Temporary Amendment Eff. October 1, 2019.*



# TEMPORARY RULE-MAKING FINDINGS OF NEED

[Authority G.S. 150B-21.1]

OAH USE ONLY

VOLUME:

ISSUE:

<b>1. Rule-Making Agency:</b> NC Wildlife Resources Commission	
<b>2. Rule citation &amp; name:</b> 15A NCAC 10F .0327 Montgomery County	
<b>3. Action:</b> <input type="checkbox"/> Adoption <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> Repeal	
<b>4. Was this an Emergency Rule:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>Effective date:</b> 7/30/19	
<b>5. Provide dates for the following actions as applicable:</b> a. Proposed Temporary Rule submitted to OAH: 3/16/20 b. Proposed Temporary Rule published on the OAH website: 3/19/20 c. Public Hearing date: 4/8/20 d. Comment Period: 3/23/20 - 4/17/20 e. Notice pursuant to G.S. 150B-21.1(a3)(2): 3/18/20 f. Adoption by agency on: 5/7/20 g. Proposed effective date of temporary rule [if other than effective date established by G.S. 150B- 21.1(b) and G.S. 150B-21.3]: h. Rule approved by RRC as a permanent rule [See G.S. 150B-21.3(b2)]:	
<b>6. Reason for Temporary Action. Attach a copy of any cited law, regulation, or document necessary for the review.</b> <input checked="" type="checkbox"/> A serious and unforeseen threat to the public health, safety or welfare. <input type="checkbox"/> The effective date of a recent act of the General Assembly or of the U.S. Congress. Cite: Effective date: <input type="checkbox"/> A recent change in federal or state budgetary policy. Effective date of change: <input type="checkbox"/> A recent federal regulation. Cite: Effective date: <input type="checkbox"/> A recent court order. Cite order: <input type="checkbox"/> State Medical Facilities Plan. <input checked="" type="checkbox"/> Other: G.S. 150B-21.1(a)(7)  <b>Explain:</b> A no wake zone, shore to shore, within 85 yards north and south of the NC Hwy 24/27/73 bridge eastbound and westbound spans, otherwise known as the James B. Garrison Bridge, is needed to mitigate water safety hazards during a NCDOT bridge construction project.  The WRC has statutory authority (G.S. 150B-21.1(a)(7)) to establish no wake zones through temporary rulemaking procedures.	

**7. Why is adherence to notice and hearing requirements contrary to the public interest and the immediate adoption of the rule is required?**

In the summer of 2019, the NCDOT and PCL Civil Construction began a large-scale project on the James B. Garrison Bridge. This project includes the use of cranes, barges, construction curtains and other materials that pose a hazard to boaters. Furthermore, boaters proceeding at normal boating speed through this section could endanger the contractors of the project. A no wake zone (NWZ) is needed to mitigate these potential water safety hazards. The construction project is on-going with a tentative Spring 2021 completion date.

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Adherence to the notice and hearing requirements of permanent rulemaking remains contrary to the public's interest and safety. The nature of bridge/road construction presents significant timing and scheduling difficulties. Projects are sometimes delayed or canceled. Also, as was the case with this NWZ, many times it is not known if a NWZ will be necessary until the project has commenced. At that point, if needed, the NWZ must be established as quickly as possible for public safety.

Furthermore, adhering to the notice and hearing requirements of permanent rulemaking would then require the repeal of the now unnecessary NWZ on the back end (six to eight months of additional rulemaking by the agency). The continuation of the NWZ through temporary rulemaking is best for public safety and is in the public's best interest.

**8. Rule establishes or increases a fee? (See G.S. 12-3.1)**

☐ Yes

Agency submitted request for consultation on:

Consultation not required. Cite authority:

☒ No

**9. Rule-making Coordinator:**

Carrie Ruhlman

**Phone:**

919-707-0011

**E-Mail:**

carrie.ruhlman@ncwildlife.org

**Agency contact, if any:**

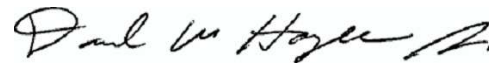
Michael Smallwood

**Phone:**

919-707-0014

**E-Mail:** michael.smallwood@ncwildlife.org

**10. Signature of Agency Head\*:**



**\* If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

**Typed Name:**

David Hoyle, Jr.

**Title:**

Chairman

**E-Mail:** davidwhoylejr@gmail.com

**RULES REVIEW COMMISSION USE ONLY**

Action taken:

Submitted for RRC Review:

☐ Date returned to agency:

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1 15A NCAC 10F .0327 is amended under temporary procedures as follows:

2  
3 **15A NCAC 10F .0327 MONTGOMERY COUNTY**

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

5 (1) Badin Lake.

6 (A) the cove west of Lakeshore Drive and east of Strand Drive, southeast of a line at the mouth  
7 of the cove from a point on the east shore at 35.49242 N, 80.09241 W to a point on the  
8 west shore at 35.49242 N, 80.09241 W;

9 (B) Lake Forest Drive Cove shore to shore, west of a point 50 yards east of the fueling site at  
10 the marina at 35.48739 N, 80.10918 W;

11 (C) Garr Creek shore to shore, north of a line beginning at a point on the east shore at 35.47952  
12 N, 80.13633 W to a point on the west shore at 35.47946 N, 80.13932 W; and

13 (D) the channel between Beyer's Island and the mainland, shore to shore beginning at a line  
14 from a point on Beyer's Island at 35.49102 N, 80.10221 W to a point on the mainland at  
15 35.49230 N, 80.10241 W, ending at a line westward, from a point on Beyer's Island at  
16 35.48988 N, 80.10573 W to a point on the mainland at 35.49077 N, 80.10702 W.

17 (2) Lake Tillery.

18 (A) the waters within 50 yards of the boat ramp in the south end of Woodrun Cove at 35.33113  
19 N, 80.06277 W;

20 (B) Carolina Forest Cove shore to shore and the waters within 50 yards of the boat ramps and  
21 boat slips at the end of Arroyo Drive in Carolina Forest Community, from a point on the  
22 south shore at 35.36276 N, 80.05386 W, northeast to a point on the north shore at 35.36405  
23 N, 80.05304 W; and

24 (C) Lilly's Bridge Boating Access Area shore to shore, from line 25 feet north of the SR 1110  
25 bridge otherwise known as Lillys Bridge Road at a point on the east shore at 35.23223 N,  
26 80.06166 W, to a point on the west shore at 35.23289 N, 80.06318 W, to a line 200 feet  
27 southwest of the Lilly's Bridge Boating Access Area, from a point on the east shore at  
28 35.23067 N; 80.06262 W, to a point on the west shore at 35.23156 N; 80.06437 W.

29 (3) Tuckertown Reservoir.

30 (b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no-wake speed within 50 yards  
31 of any marked boat launching area, dock, pier, bridge, marina, boat storage structure, or boat service area on the waters  
32 of the regulated areas described in Paragraph (a) of this Rule.

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

35 (d) Badin Lake Swimming Area. No person operating or responsible for the operation of a vessel shall permit it to  
36 enter the marked swimming area on Badin Lake at the Pinehaven Village beach area at 370 Pinehaven Drive in New  
37 London, within 50 feet of the shoreline between points at 35.49927 N, 80.11428 W; and 35.49934 N, 80.11437 W.

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

(f) Notwithstanding Paragraphs (a) through (e) of this Rule, no person shall operate a vessel at greater than no-wake speed in the waters of Lake Tillery shore to shore, within 85 yards north and 85 yards south of the NC Hwy 24/27/73 bridge eastbound and westbound spans, otherwise known as the James B. Garrison Bridge. The North Carolina Wildlife Resources Commission shall be the designated agency for placement and maintenance of markers for this regulated area.

*History Note: Authority G.S. 75A-3; 75A-15;*  
*Eff. November 1, 1977;*  
*Amended Eff. December 1, 1990; May 1, 1989; March 25, 1978;*  
*Temporary Amendment Eff. June 1, 1998;*  
*Amended Eff. April 1, 1999; July 1, 1998;*  
*Temporary Amendment Eff. July 1, 2002;*  
*Amended Eff. August 1, 2006; June 1, 2005; April 1, 2003;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016;*  
*Amended Eff. October 1, 2018; April 1, 2017;*  
*Emergency Amendment Eff. July 30, 2019;*  
*Temporary Amendment Eff. October 1, 2019;*  
*Amended Eff. May 1, 2020.*