

REQUEST FOR TECHNICAL CHANGE

AGENCY: Wildlife Resources Commission

RULE CITATION: 15A NCAC 10F .0308

DEADLINE FOR RECEIPT: Wednesday, May 10, 2017

NOTE WELL: *This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

In (b), what is meant by “the approval of the Executive Director”? I realize that this language is in several other rules in this Section – are the standards that the Executive Director (or his or her representatives) will use set forth elsewhere in rule or statute? Are the requirements of the Uniform Waterway System used?

In (b), by the “regulated area” do you mean the “regulated areas set forth in Paragraph (a) of this Rule?

In (c), there is a reference to approval by an outside entity (here it is the Tennessee Valley Authority and US Army Corps of Engineers); however, this approval for placement is not required in all rules. For example, no approval is required in 15A NCAC 10F 0355. Is there a reason for the inconsistency in approval requirements? Please note that I’m not referring to the requirement of different approving entities, but the approval requirement in general.

In (c), is it safe to assume that the Tennessee Valley Authority and the US Army Corps of Engineers have their own approval requirements that you all have no control over?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Tuesday, April 25, 2017

1 15A NCAC 10F .0308 is amended as published in 31:15 NCR 1539 as follows:

2
3 **15A NCAC 10F .0308 CLAY COUNTY**

4 (a) ~~Regulated Area.~~ Areas. ~~This Rule applies to the waters of Lake Chatuge that lie within 50 yards of the boat ramp~~
5 ~~at Ho Hum Campground.~~

6 ~~(c) Speed Limit.~~ It is unlawful to operate any motorboat or vessel at a ~~speed~~ greater than no-wake speed ~~within 50~~
7 ~~yards of~~ in the following areas on Chatuge Lake:

8 (1) within 50 yards of the boat ramp at Ho Hum Campground;

9 ~~(1) The High Bridge~~

10 (2) the waters of Shooting Creek, from a line shore to shore 50 yards west of the High Bridge on NC
11 Highway 175, to a line at the southeast end of Shooting Creek shore to shore, from a point at
12 35.01960 N, 83.72752 W; to a point at 35.01979 N, 83.72638 W;

13 ~~(2) Gibson Cove access area~~

14 (3) within 50 yards of the Gibson Cove access area;

15 ~~(3) Chatuge Cove Complex II Marina~~

16 (4) within 50 yards of the Chatuge Cove Marina;

17 ~~(4) Lakeside Cottages and Marina~~

18 (5) that portion of the cove shore to shore, west of Cottage Court off of NC Highway 175, northeast of
19 a line from a point on the east shore at 35.02576 N, 83.73784 W; to a point on the northwest shore
20 at 35.02609 N, 83.73945 W;

21 ~~(5) Chatuge Dam Spillway access area~~

22 (6) within 50 yards of the Chatuge Dam Spillway access area; and

23 ~~(6) McCracken Cove on Lake Chatuge~~

24 (7) the waters of McCracken Cove.

25 (b) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to
26 enter any marked public swimming area established with the approval of the Executive Director, or his
27 representative, on the regulated area.

28 ~~(d)~~ (c) Placement and Maintenance of Markers. The Board of Commissioners of Clay County is designated a suitable
29 agency for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the
30 ~~United States Coast Guard~~ Tennessee Valley Authority and the United States Army Corps of Engineers. ~~With~~
31 ~~regard to marking Lake Chatuge, supplementary standards as set forth in Rule .0301(g)(1) to (7) of this Section~~
32 ~~shall apply.~~

33
34 *History Note:* Authority G.S. 75A-3; 75A-15;

35 *Eff. February 1, 1976;*

36 *Amended Eff. June 1, 2005; July 1, 1998; February 1, 1990; July 1, 1986; March 25, 1978;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
2 *6, 2016;*
3 *Amended Eff. June 1, 2017.*

1 15A NCAC 10F .0321 is amended as published in 31:15 NCR 1539 as follows:

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3 **15A NCAC 10F .0321 PENDER COUNTY**

4 (a) Regulated Areas. This Rule applies to the following waters in Pender County:

- 5 (1) the canal adjoining Old Point Development;
- 6 (2) the First Finger Canal in New Topsail Beach;
- 7 (3) ~~the eastern side of Banks Channel that extends 50 yards north of the northern boat ramp at the South~~
8 ~~Beach Villas and 50 yards south of the boat ramp at Bush's Marine at Topsail Beach; in the Town~~
9 of Topsail Beach, those waters on the eastern side of Banks Channel within 100 yards of the
10 shoreline beginning 155 yards west of Bush's Marina, and extending northeast ending 75 yards from
11 the shoreline perpendicular to Haywood Avenue;
- 12 (4) those waters of the Northeast Cape Fear River between the U.S. Highway 117 bridge and ~~the~~
13 ~~Seaboard Coastline Railroad bridge. the railroad trestle sixty yards east of the Castle Hayne Boating~~
14 Access Area; and
- 15 (5) in the Town of Surf City, the waters of the channel in Topsail Sound known as Deep Creek, from
16 its mouth at a point at 34.43199 N, 77.54795 W to its end west of Goldsboro Avenue.

17 (b) Speed Limit. No person shall operate any motorboat or vessel at greater than no-wake speed within the regulated
18 areas described in Paragraph (a) of this Rule.

19 (c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Pender County with respect to the
20 regulated areas designated in Subparagraphs (1), (2) and (4) of Paragraph (a) of this Rule, ~~and~~ the Board of
21 Commissioners of the Town of Topsail Beach, with respect to the regulated area designated in Subparagraph (3) of
22 Paragraph (a) of this ~~Rule~~ Rule, and the Board of Commissioners of the Town of Surf City, with respect to the
23 regulated area designated in Subparagraph (5) of Paragraph (a) of this Rule are designated as suitable agencies for
24 placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of the United States Coast
25 Guard and the United States Army Corps of Engineers.

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

28 *Eff. May 1, 1976;*

29 *Amended Eff. July 1, 1993; December 1, 1991; May 1, 1989; October 1, 1985;*

30 *Temporary Amendment Eff. April 1, 1999;*

31 *Amended Eff. June 1, 2017; July 1, 2000;*

1 15A NCAC 10F .0355 is amended as published in 31:15 NCR 1539 as follows:

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3 **15A NCAC 10F .0355 PERQUIMANS COUNTY**

4 (a) Regulated Areas. This Rule applies to the following waters:

5 (1) Perquimans River:

6 (A) The canals of Holiday Island subdivision; and

7 (B) Town of Hertford: that part of the Perquimans River beginning 75 yards northeast of the
8 Perquimans River Bridge (Hertford S-shaped Bridge) parallel to the bridge, shore to shore,
9 and ending approximately 550 yards southwest, at a line from a point on the north shore
10 36.19300 N, 76.46962 W to a point on the south shore 36.19150 N, 76.47099 W.

11 (2) Yeopim River:

12 (A) The canal entrance between Navaho Trail and Cherokee Trail;

13 (B) The canal entrance between Cherokee Trail and Ashe Street;

14 (C) The boat ramp at Ashe and Pine Street;

15 (D) The canal entrance between Pine Street and Linden Street;

16 (E) The canal entrance and boat ramp between Willow Street and Evergreen Drive;

17 (F) The canal entrance between Sago Street and Alder Street;

18 (G) The swimming area at the Snug Harbor Park and Beach; and

19 (H) Bethel Creek north of a line from a point on the west shore at 36.09552N, 76.47958W to a
20 point on the east shore at 36.095517N, 76.47735W to a line from a point on the west shore
21 at 36.10532N, 76.48080W to a point on the east shore at 36.10516N, 76.48047W.

22 (3) Yeopim Creek:

23 (A) The canal entrance between Mohave Trail and Iowa Trail;

24 (B) The canal entrance between Iowa Trail and Shawnee Trail;

25 (C) The area within 75 yards of the Albemarle Plantation Marina Piers; ~~and~~

26 (D) The area of Beaver Cove as delineated by appropriate ~~markers.~~ markers; and

27 (E) The waters of Yeopim Creek adjacent to Heritage Shore North, shore to shore, east of a
28 line from a point on the north shore at 36.11356 N, 76.43138 W to a point on the south
29 shore at 36.11288 N, 76.43173 W, to a line northwest from a point on the east shore at
30 36.11219 N, 76.42445 W to a point on the west shore at 36.11178 N, 76.42596 W.

31 (4) Little River: The entrance to the cove known as "Muddy Gut Canal," which extends from the waters
32 known as "Deep Creek."

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

35 (c) Placement ~~and Maintenance~~ of Markers. The Board of Commissioners of Perquimans County is designated a
36 suitable agency for placement ~~and maintenance~~ of markers implementing this Rule.

1 *History Note:* *Authority G.S. 75A-3; 75A-15;*
2 *Eff. November 1, 1988;*
3 *Amended Eff. October 1, 1992;*
4 *Temporary Amendment Eff. October 1, 1997;*
5 *Amended Eff. July 1, 1998;*
6 *Temporary Amendment Eff. February 4, 2000;*
7 *Amended Eff. January 1, 2015; September 1, 2013; May 1, 2006; June 1, 2005; July 1, 2000;*
8 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December*
9 *6, 2016;*
10 *Amended Eff. June 1, 2017.*