

NORTH CAROLINA

IN THIS ISSUE



REGISTER

Volume 15, Issue 24
Pages 1961 - 2047

June 15, 2001

This issue contains documents officially filed through May 25, 2001.

Office of Administrative Hearings
Rules Division
424 North Blount Street (27601)
6714 Mail Service Center
Raleigh, NC 27699-6714
(919) 733-2678
FAX (919) 733-3462

Julian Mann III, Director
Camille Winston, Deputy Director
Molly Masich, Director of APA Services
Ruby Creech, Publications Coordinator
Linda Dupree, Editorial Assistant
Dana Sholes, Editorial Assistant
Rhonda Wright, Editorial Assistant

I. IN ADDITION

Voting Rights Letter 1961
HHS – Draft 2002 State Medical Facilities Plan 1962

II. RULE-MAKING PROCEEDINGS

Environment and Natural Resources

Environmental Management 1963 - 1966
Sedimentation Control..... 1966

Health and Human Services

Public Health 1966 - 1967

Licensing Boards

Chiropractic Examiners, Board of..... 1967

III. TEMPORARY RULES

Environment and Natural Resources

Environmental Management 1969 - 1984

Health and Human Services

Medical Assistance..... 1968 - 1969
Public Health 1984 - 1989

IV. APPROVED RULES 1990 – 2027

Community Colleges

Community Colleges

Environment and Natural Resources

Environmental Management
Marine Fisheries
Wildlife Resources

Health and Human Services

Medical Assistance

Justice

Alarm Systems Licensing Board

Licensing Boards

Electrical Contractors, Board of Examiners of

Public Education

Elementary and Secondary Education

Transportation

Highways, Division of

V. RULES REVIEW COMMISSION.....2028 - 2029

VI. CONTESTED CASE DECISIONS

Index to ALJ Decisions..... 2030 - 2042
Text of Selected Decisions
01 INS 0388 2043 - 2047

VII. CUMULATIVE INDEX 1 - 87

NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major subdivisions of rules. Two of these, titles and chapters, are mandatory. The major subdivision of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters that shall be numerical in order. The other two, subchapters and sections are optional subdivisions to be used by agencies when appropriate.

TITLE/MAJOR DIVISIONS OF THE NORTH CAROLINA ADMINISTRATIVE CODE

TITLE	DEPARTMENT	LICENSING BOARDS	CHAPTER
1	Administration	Acupuncture	1
2	Agriculture	Architecture	2
3	Auditor	Athletic Trainer Examiners	3
4	Commerce	Auctioneers	4
5	Correction	Barber Examiners	6
6	Council of State	Certified Public Accountant Examiners	8
7	Cultural Resources	Chiropractic Examiners	10
8	Elections	Employee Assistance Professionals	11
9	Governor	General Contractors	12
10	Health and Human Services	Cosmetic Art Examiners	14
11	Insurance	Dental Examiners	16
12	Justice	Dietetics/Nutrition	17
13	Labor	Electrical Contractors	18
14A	Crime Control & Public Safety	Electrolysis	19
15A	Environment and Natural Resources	Foresters	20
16	Public Education	Geologists	21
17	Revenue	Hearing Aid Dealers and Fitters	22
18	Secretary of State	Landscape Architects	26
19A	Transportation	Landscape Contractors	28
20	Treasurer	Massage & Bodywork Therapy	30
*21	Occupational Licensing Boards	Marital and Family Therapy	31
22	Administrative Procedures (Repealed)	Medical Examiners	32
23	Community Colleges	Midwifery Joint Committee	33
24	Independent Agencies	Mortuary Science	34
25	State Personnel	Nursing	36
26	Administrative Hearings	Nursing Home Administrators	37
27	NC State Bar	Occupational Therapists	38
28	Juvenile Justice and Delinquency	Opticians	40
	Prevention	Optometry	42
		Osteopathic Examination & Reg. (Repealed)	44
		Pastoral Counselors, Fee-Based Practicing	45
		Pharmacy	46
		Physical Therapy Examiners	48
		Plumbing, Heating & Fire Sprinkler Contractors	50
		Podiatry Examiners	52
		Professional Counselors	53
		Psychology Board	54
		Professional Engineers & Land Surveyors	56
		Real Estate Appraisal Board	57
		Real Estate Commission	58
		Refrigeration Examiners	60
		Sanitarian Examiners	62
		Social Work Certification	63
		Soil Scientists	69
		Speech & Language Pathologists & Audiologists	64
		Substance Abuse Professionals	68
		Therapeutic Recreation Certification	65
		Veterinary Medical Board	66

Note: Title 21 contains the chapters of the various occupational licensing boards.

NORTH CAROLINA REGISTER
 Publication Schedule for July 2000 – June 2001

Filing Deadlines			Notice of Rule-Making Proceedings	Notice of Text							Temporary Rule
volume & issue number	issue date	last day for filing	earliest register issue for publication of text	earliest date for public hearing	non-substantial economic impact			substantial economic impact			270 th day from issue date
					end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	end of required comment period	deadline to submit to RRC for review at next meeting	first legislative day of the next regular session	
15:13	01/02/01	12/07/00	03/15/01	01/17/01	02/01/01	02/20/01	05/00/02	03/05/01	03/20/01	05/00/02	09/29/01
15:14	01/16/01	12/20/00	04/02/01	01/31/01	02/15/01	02/20/01	05/00/02	03/19/01	03/20/01	05/00/02	10/13/01
15:15	02/01/01	01/10/01	04/02/01	02/16/01	03/05/01	03/20/01	05/00/02	04/02/01	04/20/01	05/00/02	10/29/01
15:16	02/15/01	01/25/01	05/01/01	03/02/01	03/19/01	03/20/01	05/00/02	04/16/01	04/20/01	05/00/02	11/12/01
15:17	03/01/01	02/08/01	05/01/01	03/16/01	04/02/01	04/20/01	05/00/02	04/30/01	05/21/01	05/00/02	11/26/01
15:18	03/15/01	02/22/01	05/15/01	03/30/01	04/16/01	04/20/01	05/00/02	05/14/01	05/21/01	05/00/02	12/10/01
15:19	04/02/01	03/12/01	06/01/01	04/17/01	05/02/01	05/21/01	05/00/02	06/01/01	06/20/01	05/00/02	12/28/01
15:20	04/16/01	03/26/01	06/15/01	05/01/01	05/16/01	05/21/01	05/00/02	06/15/01	06/20/01	05/00/02	01/11/02
15:21	05/01/01	04/10/01	07/02/01	05/16/01	05/31/01	06/20/01	05/00/02	07/02/01	07/20/01	05/00/02	01/26/02
15:22	05/15/01	04/24/01	07/16/01	05/30/01	06/14/01	06/20/01	05/00/02	07/16/01	07/20/01	05/00/02	02/09/02
15:23	06/01/01	05/11/01	08/01/01	06/18/01	07/02/01	07/20/01	05/00/02	07/31/01	08/20/01	05/00/02	02/26/02
15:24	06/15/01	05/25/01	08/15/01	07/02/01	07/16/01	07/20/01	05/00/02	08/14/01	08/20/01	05/00/02	03/12/02
16:01	07/02/01	06/11/01	09/04/01	07/17/01	08/01/01	08/20/01	05/00/02	08/31/01	09/20/01	05/00/02	03/29/02
16:02	07/16/01	06/22/01	09/17/01	07/31/01	08/15/01	08/20/01	05/00/02	09/14/01	09/20/01	05/00/02	04/12/02
16:03	08/01/01	07/11/01	10/01/01	08/16/01	08/31/01	09/20/01	05/00/02	10/01/01	10/22/01	05/00/02	04/28/02
16:04	08/15/01	07/25/01	10/15/01	08/30/01	09/14/01	09/20/01	05/00/02	10/15/01	10/22/01	05/00/02	05/12/02
16:05	09/04/01	08/13/01	11/15/01	09/19/01	10/04/01	10/22/01	05/00/02	11/05/01	11/20/01	05/00/02	06/01/02
16:06	09/17/01	08/24/01	12/03/01	10/02/01	10/17/01	10/22/01	05/00/02	11/16/01	11/20/01	05/00/02	06/14/02
16:07	10/01/01	09/10/01	12/03/01	10/16/01	10/31/01	11/20/01	05/00/02	11/30/01	12/20/01	05/00/02	06/28/02
16:08	10/15/01	09/24/01	12/17/01	10/30/01	11/14/01	11/20/01	05/00/02	12/14/01	12/20/01	05/00/02	07/12/02
16:09	11/01/01	10/11/01	01/02/02	11/16/01	12/03/01	12/20/01	05/00/02	12/31/01	01/21/02	05/00/02	07/29/02
16:10	11/15/01	10/24/01	01/15/02	11/30/01	12/17/01	12/20/01	05/00/02	01/14/02	01/21/02	05/00/02	08/12/02
16:11	12/03/01	11/07/01	02/01/02	12/18/01	01/02/02	01/22/02	05/00/02	02/01/02	02/20/02	05/00/02	08/30/02
16:12	12/17/01	11/26/01	02/15/02	01/02/02	01/16/02	01/22/02	05/00/02	02/15/02	02/20/02	05/00/02	09/13/02

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) notices of rule-making proceedings;
- (3) text of proposed rules;
- (4) text of permanent rules approved by the Rules Review Commission;
- (5) notices of receipt of a petition for municipal incorporation, as required by G.S. 120-165;
- (6) Executive Orders of the Governor;
- (7) 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;
- (8) orders of the Tax Review Board issued under G.S. 105-241.2; and
- (9) 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 RULE-MAKING PROCEEDINGS

END OF COMMENT PERIOD TO A NOTICE OF RULE-MAKING PROCEEDINGS: This date is 60 days from the issue date. An agency shall accept comments on the notice of rule-making proceeding until the text of the proposed rules is published, and the text of the proposed rule shall not be published until at least 60 days after the notice of rule-making proceedings was published.

EARLIEST REGISTER ISSUE FOR PUBLICATION OF TEXT: The date of the next issue following the end of the comment period.

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

(1) **RULE WITH NON-SUBSTANTIAL ECONOMIC IMPACT:** An agency shall accept comments on the text of a proposed rule for at least 30 days after the text is published or until the date of any public hearings held on the proposed rule, whichever is longer.

(2) **RULE WITH SUBSTANTIAL ECONOMIC IMPACT:** An agency shall accept comments on the text of a proposed rule published in the Register and that has a substantial economic impact requiring a fiscal note under G.S. 150B-21.4(b1) for at least 60 days after publication or until the date of any public hearing held on the 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.

FIRST LEGISLATIVE DAY OF THE NEXT REGULAR SESSION OF THE GENERAL ASSEMBLY: This date is the first legislative day of the next regular session of the General Assembly following approval of the rule by the Rules Review Commission. See G.S. 150B-21.3, Effective date of rules.

This Section contains public notices that are required to be published in the Register or have been approved by the Codifier of Rules for publication.

U.S. Department of Justice

Civil Rights Division

JDR:RPL:HCL:jdh
DJ 166-012-3
2001-0864
2001-1041

*Voting Section
P.O. Box 66128
Washington, D.C. 20035-6128*

May 3, 2001

Robert E. Hornik, Jr., Esq.
The Brough Law Firm
1829 East Franklin St., Suite 800-A
Chapel Hill, NC 27514

Dear Mr. Hornik:

This refers to two annexations (Ordinance Nos. 01-1 and 01-3 (2001)) and their designation to districts of the Town of Tarboro in Edgecombe County, North Carolina, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on March 16 and April 3, 2001.

The Attorney General does not interpose any objection to the specified changes. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine these submissions if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41 and 51.43).

Finally, we wish to take this opportunity to inform you that beginning January 29, 2001, Section 5 submissions sent to the Attorney General, other than through the United States Postal Service, should be addressed, or may be delivered to: Chief, Voting Section, Civil Rights Division, Department of Justice, 1800 G Street, N.W., Room 7254, Washington, D.C. 20006. Our postal box address (PO Box 66128, Washington, D.C. 29935-6128) remains unchanged.

Sincerely,

Joseph D. Rich
Acting Chief

TITLE 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES

2002 STATE MEDICAL FACILITIES PLAN (SMFP)

◆ PUBLIC NOTICE ◆

Citizens are invited to attend public hearings on the Draft 2002 State Medical Facilities Plan to be conducted by the North Carolina State Health Coordinating Council (SHCC) at the following times and locations:

Greenville	July 23, 2001 <i>(Monday)</i>	1:30-2:30 p.m.	The Willis Building East Carolina University 300 East First Street Greenville, NC 27858-4356
Greensboro	July 23, 2001 <i>(Monday)</i>	1:30-2:30 p.m.	Greensboro AHEC Room 29 & 30 Moses Cone Hospital Campus 1200 North Elm Street Greensboro, NC
Charlotte	July 25, 2001 <i>(Wednesday)</i>	1:30-2:30 p.m.	Carolinas Medical Center Rankin Education Center Auditorium 1200 Blythe Boulevard Charlotte, NC
Asheville	July 26, 2001 <i>(Thursday)</i>	1:30-2:30 p.m.	Mountain Area Health Education Center (Straddles St. Joseph's/Memorial Mission Hospitals; entrance for Memorial Mission) 501 Biltmore Avenue Second Floor, Classroom #4 Asheville, NC 28801-4686
Wilmington	July 27, 2001 <i>(Friday)</i>	1:30-2:30 p.m.	Coastal Area Health Education Center New Hanover Regional Medical Center Auditorium -- Ground Floor 2131 S. 17th Street Wilmington, NC
Raleigh	July 30, 2001 <i>(Monday)</i>	1:30-2:30 p.m.	Jane S. McKimmon Center (Corner of Gorman Street & Western Boulevard) Raleigh, NC

All persons commenting on the Draft Plan at the public hearings are asked to supply WRITTEN COPIES of their remarks. Persons with disabilities who need assistance to participate in the public hearing are requested to notify the Medical Facilities Planning Section in advance so that reasonable accommodations can be arranged.

The State Medical Facilities Plan projects need for acute care hospital beds, rehabilitation facilities and beds, ambulatory surgery facilities and operating rooms, technology services and equipment, nursing care beds, home health agencies, kidney dialysis stations, hospice home care programs and inpatient beds, psychiatric hospitals, substance abuse treatment facilities, and intermediate care facilities for the mentally retarded. **NOTE: After the need determinations and policies are adopted by the SHCC and approved by the Governor, they will be incorporated in Administrative Procedure Act Rules for the 2002 State Medical Facilities Plan.**

Persons wishing to review or purchase the Draft 2002 State Medical Facilities Plan or who want information about the Plan or the series of public hearings may call 919-733-4130, or write to: Medical Facilities Planning Section, Division of Facility Services, 2714 Mail Service Center, Raleigh, NC 27699-2714. Inquiries may be made to this same address about comments or petitions received regarding the Draft Plan. Copies of the Draft Plan will also be made available to all Area Health Education Centers and to all Lead Regional Organizations (Councils of Government) in the State. **ALL WRITTEN COMMENTS AND PETITIONS ON THE DRAFT 2002 STATE MEDICAL FACILITIES PLAN MUST BE RECEIVED BY AUGUST 3, 2001.**

A Notice of Rule-making Proceedings is a statement of subject matter of the agency's proposed rule making. The agency must publish a notice of the subject matter for public comment at least 60 days prior to publishing the proposed text of a rule. Publication of a temporary rule serves as a Notice of Rule-making Proceedings and can be found in the Register under the section heading of Temporary Rules. A Rule-making Agenda published by an agency serves as Rule-making Proceedings and can be found in the Register under the section heading of Rule-making Agendas. Statutory reference: G.S. 150B-21.2.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CHAPTER 02 – ENVIRONMENTAL MANAGEMENT

Notice of Rule-making Proceedings is hereby given by the Environmental Management Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 15A NCAC 02D; 02D .0105, .0504, .0506-.0507, .0509, .0515-.0516, .0521, .0524, .0538, .0542, .0606, .0608, .0902, .0912, .0952, .0954, .1201-.1202, .1205, .1210, Section .1200; 02Q .0102-.0104, .0202, .0306, .0702, .0706, Section .0300 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 143-215.3(a)(1), (1a), (1b), (1d); 143-215.68; 143-215.107(a)(1), (3), (4), (5), (9), (10); 143-215.108; 143-215.108(f); 143-215.108(g); 143-215.109; 143-215.212; 143-215.213; 143B-282; 150B-21.2(d); 150B-21.6

Statement of the Subject Matter:

15A NCAC 02D-1 – There is an increasing interest in establishing electric generating capacity in the US and North Carolina utilizing numerous dispersed generators. These units are primarily diesel fuel powered resulting in increases in NOx, SO2, and particulate matter emissions which may further increase local or regional air quality concerns or actual problems.

15A NCAC 02D-2 – As a part of the overall strategy to reduce ozone concentrations, standards would be set to specify maximum sulfur content of diesel fuel.

15A NCAC 02D-3 – Mercury, which persists in the environment and bioaccumulates in ecosystems, is an important environmental and public health concern in North Carolina. Human exposure to mercury, which occurs primarily through consumptions of contaminated fish, can damage organs in adults and the nervous system of developing fetuses. Mercury emitted to the air deposits on land and in water and contributes to exposure. Measures to reduce mercury in the environment are needed to help reduce human exposure and its negative impacts. Combustion sources represent the largest source of mercury emissions to the air. The Environmental Management Commission will consider what actions are needed to reduce emissions.

15A NCAC 02D .0105 – The mailing address of the Division of Air Quality in this Rule needs correcting. Also the statutory references in the Rule need to be changed to 150B-21.2(d).

15A NCAC 02D .0504 – Paragraph (f) of this Rule, Particulates from Wood Burning Indirect Heat Exchangers, references Paragraph (d) of 15A NCAC 02D .0503. This reference needs to be changed to Paragraph (f) of 15A NCAC 02D .0503.

15A NCAC 02D .0506-.0507, .0509, .0515 – These Rules have the same equation and limit structure, but they have a slight variation in wording. In 15A NCAC 02D .0506, the allowable emission rate is referred to as the maximum allowable emission rate, and the production rate is referred to as the maximum process rate. In 15A NCAC 02D .0509, the process rate is referred to as the actual process rate. In 15A NCAC 02D .0507 and .0515, the modifiers "maximum" and "actual" are omitted for the allowable emission rate and the process rate. These Rules should be revised so that they use consistent wording.

15A NCAC 02D .0516 – This Rule contains a general emission standard for sulfur dioxide for combustion sources including incinerators. This Rule excludes sources that have a specific emission standard for sulfur dioxide. Two incinerator rules have specific emission standards for sulfur dioxide; therefore, these incinerators should be exempted from the general sulfur dioxide rule. These incinerators are municipal waste combustors and hospital, medical, and infectious waste incinerators.

15A NCAC 02D .0521 – This Rule contains two visible emission standards. Sources manufactured before July 1, 1971 are required to meet a 40 percent opacity standard. Sources manufactured after July 1, 1971 are required to meet a 20 percent opacity standard. This Rule would be amended to require these older sources to meet a 20 percent opacity standard.

15A NCAC 02D .0524, .1201-.1202, .1210 – The EPA has proposed emission guidelines to reduce air pollution from commercial and industrial solid waste incinerators (CISWI). The rule would apply to incinerators used by commercial and industrial facilities to burn non-hazardous solid waste. Among the pollutants covered under this Rule are particulates, sulfur dioxide, lead, cadmium, mercury, and dioxins/furans. The rules would also require monitoring and testing, operator training and qualification, and a waste management plan. The proposed rule would closely follow the EPA guidelines. Other rules that may need to be amended include 15A NCAC 02D .1201, Purpose and Scope, and 15A NCAC 02D .1202, Definitions.

15A NCAC 02D .0538 – The General Statute reference in Paragraph (e) of this Rule, Control of Ethylene Oxide Emissions, needs correcting. It currently references G.S. 143-125.108(c). The correct reference is G.S. 143-215.108(g). (This General Statute deals with plans to reduce emissions of air contaminants.)

15A NCAC 02D .0542-1 – Currently particulate emissions from glass-melting furnaces are controlled under 15A NCAC 02D .0515, Particulates from Miscellaneous Industrial Processes. This Rule may not be appropriate for controlling particulates from this part of the glass manufacturing process. Some of the

problems encountered in applying this Rule to glass-melting furnaces include condensable particulates, which are significant part of the particulate emissions, and defining the source. To address these and other problems specific to glass-melting furnaces, specific emissions standards need to be developed for glass-melting furnaces. Pollutants other than particulates may be covered by this Rule.

15A NCAC 02D .0542-2 – Currently, particulate emissions from cotton gins are controlled under 15A NCAC 02D .0515, Particulates from Miscellaneous Industrial Processes. This Rule may not be appropriate for controlling particulates from cotton gins. New knowledge about emissions from cotton gins has brought into question whether the miscellaneous particulate rule is appropriate for this type of source. Therefore, specific emissions standards may need to be developed for cotton gins.

15A NCAC 02D .0606, .0608 – These Rules require fuel analysis of each shipment of fuel received if fuel analysis is being used to show compliance with the sulfur dioxide emission standard. The proposed rule change would allow fuel analysis of coal as fired instead of for each shipment. Because of the way coal is often stockpiled, sampling coal as fired in many instances provides a more accurate estimation of sulfur dioxide emissions. Some facilities receive shipments of coal frequently. These shipments become mixed. Thus, a more accurate estimation of sulfur dioxide emissions can often be obtained by sampling the coal as it is fired. This option would include specifications for the frequency of sampling and the compositing of samples.

15A NCAC 02D .0902-1 – Paragraph (c) of this Rule references repealed rules. They are 15A NCAC 02D .0938 and 15A NCAC 02D .0946. These references should be replaced with 15A NCAC 02D .0937 and 15A NCAC 02D .0945.

15A NCAC 02D .0902-2 – Paragraph (h) of this Rule contains an exemption for laboratories. For consistency this exemption should be revised to read like the laboratory exemption in 15A NCAC 02Q .0102. However, the 800-pound-per-calender-month cap may be retained. The requirement to obtain approval from the Division of Air Quality before using this exemption will probably be removed.

15A NCAC 02D .0912 – In Paragraph (g) of this Rule, the "Division of Environmental Management" needs to be changed to the "Division of Air Quality."

15A NCAC 02D .0952 - Several corrections need to be made to this Rule. The references to Rule 15A NCAC 2D .0946 in Subparagraph (b)(2) need to be replaced with a reference to the gasoline handling rules because 15A NCAC 02D .0946 has been repealed. Paragraph (d) references Paragraphs (d) and (e) of Rule 15A NCAC 2D .0902, Applicability; this reference needs to be changed to Paragraphs (e), (f), and (g). Subparagraph (e)(6) references a repealed rule; this reference needs to be removed. Currently, Rule 15A NCAC 2D .0952 allows petitioning for alternative controls when compliance with a volatile organic rule in Section 15A NCAC 2D .0900 is technologically or economically infeasible. A provision may be added to allow petitioning for alternative controls that are superior to those required under this Section.

15A NCAC 02D .0954 – In Paragraph (k) of this Rule, the Department name needs to be corrected.

15A NCAC 02D .1200 – Several incinerator rules (15A NCAC 02D .1201, .1203-.1206, and .1208) reference the old odor rule (15A NCAC 02D .0522). These Rules need to be amended to reference the new odor rule (15A NCAC 02D .1806), which

became effective April 1, 2001. In the municipal waste combustors rule, 15A NCAC 02D .1205, under Subpart (c)(4)(B)(i) and (c)(4)(B)(ii) the word "no" needs to be inserted before the parts per million standards.

15A NCAC .02D .1202, .1205 – The EPA has promulgated new emission guidelines to reduce air pollution from small municipal waste combustors. 15A NCAC 02D .1205, Municipal Waste Combustors, currently contains emission standards for both large and small municipal waste combustors. This Rule needs to be revised to bring the requirements for small municipal waste combustors in line with the new guidelines. 15A NCAC 02D .1202, Definitions, may also be amended.

15A NCAC 02Q .0102-1 – Currently, small country grain elevators and mills are exempted from needing an air quality permit under the miscellaneous exemptions in this Rule. Under the miscellaneous exemptions, if the potential uncontrolled emissions of particulates from a source at a country grain elevator or mill are less than five tons per year, then that source is exempted from permitting. The reason for having a specific exemption for country grain elevators and mills is to simplify the qualifications for exemption and the determination whether or not the source qualifies for exemption.

15A NCAC 02Q .0102-2 – This Rule contains several internal cross-references that need to be corrected. In Paragraphs (b), (e), and (f), Paragraph (b) is referenced. The correct reference is Paragraph (c).

15A NCAC 02Q .0103 – "Applicable Requirement" lists standards that are applicable requirements for permitting purposes. Missing from this list of requirements are the volatile organic compound emission standards in 15A NCAC 02D .0900, nitrogen oxide emission standards in 15A NCAC 02D .1400, and incinerator standards in 15A NCAC 02D .1200. These Sections of rules need to be added to the list of applicable requirements.

15A NCAC 02Q .0104 – The Division of Air Quality's mailing address in this Rule needs to be corrected.

15A NCAC 02Q .0202 – Currently this Rule defines a Title V facility as one that has potential emissions of at least 10 tons per year for any hazardous air pollutant, of at least 25 tons per year for all hazardous air pollutants combined, or of at least 100 tons per year of any other regulated pollutant or is required to have a Title V permit under 40 CFR Part 61 or 63. (40 CFR Parts 61 and 63 contain the national emissions standards for hazardous air pollutants). The EPA has recently promulgated rules that require certain categories of sources that do not meet any of these specifications to have a Title V permit. These categories include municipal solid waste landfills whose capacities exceed 2.5 million megagrams and 2.5 million cubic meters and hospital, medical, and infectious waste incinerators. Like other facilities required to have a Title V permit, these facilities should also pay Title V permitting fees.

15A NCAC 02Q .0300 - G.S. 143-215.108(f) requires the permit applicant for a new facility or for an expansion of a facility to request each local government having jurisdiction over any part of the land on which the facility is or will be located to issue a determination as to whether the local government has in effect a zoning or subdivision ordinance applicable to the facility and whether the proposed facility is consistent with the ordinance. For areas with zoning, the Division of Air Quality (DAQ) has required evidence that the applicant has notified the zoning agency. For areas without zoning, the DAQ has required evidence that the area does not have zoning. For areas with

zoning, the proposed rule may describe in more detail the procedure for notifying the zoning agency and documenting this notification. For areas without zoning, the rule would describe the procedure for notifying the general public of the activity for which the air permit is being requested. Such notification could include newspaper advertisement, posting a prominent notice on the land where the permitted activity will be, or notifying adjacent land owners or residents by mail or other means. The responsibility for this notification would be the permit applicant's responsibility. Another option would be to shift the notification responsibility to the DAQ and amend 15A NCAC 02Q .0306, Permits Requiring Public Participation, to require the DAQ to provide a public notice for comments for permit applications in areas without zoning.

15A NCAC 02Q .0306 - Amendments to this Rule that went into effect July 1, 1999, removed the requirement to notice for public comments for permits with conditions to avoid the applicability of reasonably available control technology for volatile organic compounds or the applicability of the Title V permitting requirements. Also, three additional requirements of this Rule were removed and placed in a new rule, 15A NCAC 02Q .0314, General Permit Requirements. While these changes were going through the rulemaking process, 15A NCAC 02Q .0306 was also in the process of being amended to change the cross-reference to the incinerator rules, which became effective July 1, 2000. This cross-reference change was based on the version of the 15A NCAC 02Q .0306 that was in effect before July 1, 1999. When the version of the Rule containing the cross-reference change was filed, it was not revised to show the changes that went into effect on July 1, 1999. Thus, the language that the July 1, 1999 amendments had deleted was added back into the rule when the Rules Review Commission approved the filing for the cross-reference change. To reincorporate the changes made effective July 1, 1999, this Rule needs to be amended again to remove the language that July 1, 1999 amendments removed.

15A NCAC 02Q .0702 - This Rule contains a list of activities exempted from air toxics permitting. The Rule specifically requires emissions from several of these activities to be included when determining compliance, i.e., their emissions are to be included in the modeling demonstration. These activities include gasoline dispensing facilities, bulk gasoline plants, bulk gasoline terminals, and the production and storage of medical devices. The rule is silent on how to treat the other exempt activities when making compliance determination. These activities have typically been ignored when making a compliance determination. The proposed amendment would clarify that these activities are not to be included when determining compliance with air toxic rules.

15A NCAC 02Q .0706 - Subparagraph (a)(1) of this Rule excludes facilities whose emissions of toxic air pollutants result only from sources exempted from permitting under 15A NCAC 02Q .0102. Until recent amendments to the Title V permitting rules redefined insignificant activities, insignificant activities were defined as permit exemptions under 15A NCAC 02Q .0102. This proposed amendment would treat insignificant activities as they were originally treated before the amendments to the Title V permitting rules changed the definition of insignificant activities. Thus, a Title V facility whose emissions of toxic air pollutants result only from insignificant activities would be excluded from this Rule.

Reason for Proposed Action:

15A NCAC 02D-1 - As a part of the overall state air quality strategy to protect public health and welfare, standards would be set to specific levels and establish permitting requirements for distributed power generation.

15A NCAC 02D-2 - To adopt sulfur standards for diesel fuel

15A NCAC 02D-3 - To reduce emissions of mercury to the air from combustion sources

15A NCAC 02D .0105 - To correct the mailing address in this Rule

15A NCAC 02D .0504 - To correct a cross-reference

15A NCAC 02D .0506-.0507, .0509, .0515 - To revise several particulate rules to make wording consistent

15A NCAC 02D .0516 - To revise this Rule, Sulfur Dioxide Emissions from Combustion Sources

15A NCAC 02D .0521 - To eliminate the 40 percent opacity standard for older sources in this Rule, Control of Visible Emissions

15A NCAC 02D .0524, .1201-.1202, .1210 - To adopt a new rule for existing commercial and industrial solid waste incinerators

15A NCAC 02D .0538 - To correct a reference

15A NCAC 02D .0542-1 - To have a specific particulate emission standard for glass-melting furnaces, which include the melter, refiner, and forehearth

15A NCAC 02D .0542-2 - To have a specific particulate emission standard for cotton gins

15A NCAC 02D .0606, .0608 - To provide an option for sampling coal as fired in lieu of sampling it as received

15A NCAC 02D .0902-1 - To correct cross-references in this Rule, Applicability

15A NCAC 02D .0902-2 - To revise the laboratory exemption in this Rule, Applicability, to make it consistent with the permit exemption

15A NCAC 02D .0912 - To correct the name of the division in this Rule, General Provisions on Test Methods and Procedures

15A NCAC 02D .0952 - To correct cross-references and to allow petitioning for superior control technology

15A NCAC 02D .0954 - To correct the Department name in this Rule, Stage II Vapor Recovery

15A NCAC 02D .1200 - To correct cross-references and make other corrections

15A NCAC 02D .1202, .1205 - To amend the municipal waste combustor rule to incorporate new requirements for small municipal waste combustors

15A NCAC 02Q .0102-1 - To add a specific permit exemption for country grain elevators and mills to this Rule, Activities Exempted from Permit Requirements

15A NCAC 02Q .0102-2 - To correct cross-reference

15A NCAC 02Q .0103 - To correct and update the definition of "Applicable Requirement" in this Rule, Definitions

15A NCAC 02Q .0104 - To correct a mailing address

15A NCAC 02Q .0202 - To change the definition of "Title V Facility" in this Rule, Definitions, to allow charging all facilities required to have a permit under Title V of the federal Clean Air Act, Title V permitting fees

15A NCAC 02Q .0300 - To describe the procedures for providing the Division of Air Quality information on local zoning consistency determinations in areas with zoning and to describe procedures for notifying the general public in areas without zoning

15A NCAC 02Q .0306 – To correct an error made filing amendments to this Rule, Permits Requiring Public Participation

15A NCAC 02Q .0702 – To clarify that certain permit exemptions in this Rule, Exemptions, do not have to be included in modeling demonstrations

15A NCAC 02Q .0706 – To treat insignificant activities under this Rule, Modifications, in the same manner as sources exempted from permitting

Comment Procedures: Comments will be accepted by Thomas Allen, Division of Air Quality, 1641 Mail Service Center, Raleigh, NC 27699-1641, (919) 733-1489, fax (919) 715-7476, email thom.allen@ncmail.net.

CHAPTER 02 – ENVIRONMENTAL MANAGEMENT

Notice of Rule-making Proceedings is hereby given by Environmental Management Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 15A NCAC 02H .0500. Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 143-215.1(a)(6)

Statement of the Subject Matter: The purpose of this notice is to publish notice that the Environmental Management Commission is considering rulemaking actions to develop rules for regulating impacts to isolated wetlands and surface waters. These rules would establish a permitting system to allow impacts to isolated wetlands and isolated surface waters after a process of review.

Reason for Proposed Action: In January 2001, the US Supreme Court decided the SWANCC case (Solid Waste Agency of Northern Cook County versus US Army Corps of Engineers; 121 S. Ct. 675,148 L.Ed. 2nd 576, Jan. 2001). This decision determined that isolated surface waters (and thereby isolated wetlands) are not subject to permitting by Section 404 of the Clean Water Act. This decision also encouraged states to enact programs to manage the impact to these isolated waters if the states so choose. This decision removed federal regulatory protection of these waters and significantly changed the character of the wetland permitting system in NC. In May 2001, the N.C. Environmental Management Commission unanimously determined that the existing wetland standards (15A NCAC 02B .0231) were intended to protect isolated wetlands. These proposed rules will reestablish (as a state permit) the general review process for impacts to these waters that was in place in NC before the SWANCC decision. These rules may be filed as temporary rules.

Comment Procedures: Comments may be submitted in writing to Jeff Manning, Planning Branch – Division of Water Quality, 1617 Mail Service Center, Raleigh, NC 27699-1617.

CHAPTER 04 – SEDIMENTATION CONTROL

Notice of Rule-making Proceedings is hereby given by Sedimentation Control Commission in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 15A NCAC 04B .0126. Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 113A-54.2

Statement of the Subject Matter: The proposed Rule change will increase the erosion and sedimentation control plan review fee to \$50.00 per acre disturbed from \$40.00 per acre disturbed.

Reason for Proposed Action: The Sedimentation Control Commission has determined that an increase in the plan review fee is needed to provide additional resources for the Erosion and Sedimentation Control Program. These additional resource needs are identified in the Commission's Plan of Action adopted on November 19, 1997.

Comment Procedures: Written comments may be submitted to Mell Nevils, Section Chief, Division of Land Resources – Land Quality Section, 1612 Mail Service Center, Raleigh, NC 27699-1612, (919) 733-4574, extension 701.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

Notice of Rule-making Proceedings is hereby given by the Department of Health and Human Services in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 15A NCAC 19A .0101-.0103, .0202-.0203, .0205, .0207, .0209, .0801-.0803 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 130A-134; 130A-135; 130A-139; 130A-141

Statement of the Subject Matter: 15A NCAC 19A .0101 – Reportable Diseases and Conditions 15A NCAC 19A .0102 – Method of Reporting 15A NCAC 19A .0103 – Duties of Local Health Director: Report Communicable Diseases

CHAPTER 10 – BOARD OF CHIROPRACTIC EXAMINERS

- 15A NCAC 19A .0202 – Control Measures – HIV
- 15A NCAC 19A .0203 – Control Measures – Hepatitis B
- 15A NCAC 19A .0205 – Control Measures – Tuberculosis
- 15A NCAC 19A .0207 – Control Measures – HIV and Hepatitis B Infected Health Care Workers
- 15A NCAC 19A .0209 – Laboratory Testing
- 15A NCAC 19A .0801 – Communicable Disease Financial Grants and Contracts
- 15A NCAC 19A .0802 – Eligibility for Tuberculosis Hospitalization Services
- 15A NCAC 19A .0803 – Eligibility for Tuberculosis Nursing Home Services

Reason for Proposed Action:

- 15A NCAC 19A .0101 – Revisions are proposed to update the list of diseases and conditions reportable by physicians and laboratories.
- 15A NCAC 19A .0102 – Revisions are proposed to clarify the manner of reporting diseases and conditions reportable by physicians and laboratories.
- 15A NCAC 19A .0103 – Revisions are proposed to update the name of the HIV/STD Prevention and Care Branch.
- 15A NCAC 19A .0202 – Revisions are proposed to expand the HIV/STD control measures to ensure compliance with national standards.
- 15A NCAC 19A .0203 – Revisions are proposed to expand and update the hepatitis B control measures to ensure compliance with national standards.
- 15A NCAC 19A .0205 – Revisions are proposed to update the TB Control Program name and mailing address.
- 15A NCAC 19A .0207 – Revisions are proposed to update the General Communicable Disease Control Branch name and mailing address.
- 15A NCAC 19A .0209 – Revisions are proposed to add a requirement for serogroup testing for Haemophilus influenzae isolates.
- 15A NCAC 19A .0801 – Revisions are proposed to remove outdated portions of this Rule pertaining to HIV/STD and tuberculosis control.
- 15A NCAC 19A .0802-.0803 – It is proposed that these rules be repealed in their entirety.

Comment Procedures: Written comments concerning these rule-making actions may be submitted within 60 days after the date of publication in this issue of the North Carolina Register. Comments must be submitted to Chris Hoke, Rule-Making Coordinator, Division of Public Health, 2001 Mail Service Center, Raleigh, NC 27699-2001.

Notice of Rule-making Proceedings is hereby given by the NC Board of Chiropractic Examiners in accordance with G.S. 150B-21.2. The agency shall subsequently publish in the Register the text of the rule(s) it proposes to adopt as a result of this notice of rule-making proceedings and any comments received on this notice.

Citation to Existing Rule Affected by this Rule-making: 21 NCAC 10 .0207-.0208 - Other rules may be proposed in the course of the rule-making process.

Authority for the Rule-making: G.S. 90-154.3; 90-155

Statement of the Subject Matter:

- 21 NCAC 10 .0207 – Proposed rule establishes the criteria for Board approval of continuing education seminars for the chiropractic profession and also specifies the duties of seminar sponsors and the sanctions for non-compliance.
- 21 NCAC 10 .0208 – Educational standards for chiropractors who perform acupuncture

Reason for Proposed Action:

- 21 NCAC 10 .0207 – Until recently, continuing education seminars were offered only by chiropractic colleges and co-sponsored by the state chiropractic association. The colleges exercised adequate quality control, and the Board's approval was pro forma. However, within the last two years, a number of for-profit private companies have entered the continuing education marketplace, and their offerings have varied with respect to course content, instructor credentials and seminar administration. The Board believes that a rule setting forth the criteria for seminar approval is now necessary.
- 21 NCAC 10 .0208 – The proposed rule is intended to enhance public health and safety by restricting the use of acupuncture by chiropractic physicians to those practitioners who have had adequate training. The proposed minimum educational standards were developed in consultation with recognized chiropractic colleges and the Acupuncture Council of the NC Chiropractic Association.

Comment Procedures: Written comments may be submitted to the Secretary of the Board through October 17, 2001 at 101 S. Elm St., Suite 215, Greensboro, NC 27401. Oral comments will be received at a public hearing.

This Section includes temporary rules reviewed by the Codifier of Rules and entered in the North Carolina Administrative Code and includes, from time to time, a listing of temporary rules that have expired. See G.S. 150B-21.1 and 26 NCAC 02C .0500 for adoption and filing requirements. Pursuant to G.S. 150B-21.1(e), publication of a temporary rule in the North Carolina Register serves as a notice of rule-making proceedings unless this notice has been previously published by the agency.

TITLE 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES

Rule-making Agency: *DHHS – Division of Medical Assistance*

Rule Citation: *10 NCAC 26H .0512*

Effective Date: *May 16, 2001*

Findings Reviewed and Approved by: *Beecher R. Gray*

Authority for the rulemaking: *G.S. 108A-25(b); 108A-54; 1902(a) of the Social Security Act.*

Reason for Proposed Action: *This change is necessary to provide payment for services furnished by a rural health clinic and a federally qualified health center.*

Comment Procedures: *Written comments concerning this rule-making action must be submitted to Portia W. Rochelle, Rule-making Coordinator, Division of Medical Assistance, 1985 Umstead Drive, 2504 Mail Service Center, Raleigh, NC 27699-2504.*

CHAPTER 26 – MEDICAL ASSISTANCE

SUBCHAPTER 26H – REIMBURSEMENT PLANS

10 NCAC 26H .0512 RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS

(a) Rural health clinic (RHCs) services and other ambulatory services shall be furnished by a rural health clinic.

- (1) Effective January 1, 2001, for the period January 1, 2001 to September 30, 2001, RHCs are reimbursed 100 per cent of the average of their reasonable costs of providing Medicaid covered core services during fiscal years 1999 and 2000, adjusted to take into account any increase (or decrease) in the scope of services furnished during fiscal year 2001 by the RHC (calculating the payment amount on a per visit basis). Cost caps shall continue to be used, as established by Medicare.
- (2) Effective October 1, 2001, and for each fiscal year thereafter, rates shall be increased by the percentage increase in the Medicare Economic Index for primary care services and adjusted to take into account any increase (decrease) in the scope of services furnished during that fiscal year.
- (3) Newly qualified RHCs after fiscal year 2000 will have their initial rates established either by reference to rates paid to other clinics in the same or adjacent areas, or in the absence of such other clinics, through cost reporting

methods. Rates for subsequent fiscal years shall be based on the same update methods reflected in Subparagraph (2) of this Paragraph.

- (4) Core rates established in Subparagraphs (1), (2) and (3) of this Paragraph are prospective and not subject to cost settlement. Medicaid covered services are defined in section 1861 (aa)(1)(A)-(C) of the Social Security Act.
 - (5) Notwithstanding Subparagraph (1) of this Paragraph, interim fiscal year 2001 rates shall be the rates currently in effect on December 31, 2000, since information needed to establish rates per Subparagraph (1) of this Paragraph is not currently available.
 - (A) These rates shall be adjusted annually in accordance with Subparagraph (2) of this Paragraph.
 - (B) These rates shall be adjusted based on available as filed cost reports, in accordance with Subparagraph (1) of this Paragraph.
 - (C) These rates shall be settled to the permanent prospective rates determined in accordance with Subparagraph (1) of this Paragraph, once audited cost reports become available.
 - (6) The rates established under Subparagraph (1), (2), (3) or (5) of this Paragraph are subject to appeal. In the appeal process, the provider must demonstrate based on the preponderance of evidence that rates should be adjusted to insure the provider's financial viability.
 - (7) Covered non-core services shall continue to be paid on a fee for service basis, subject to annual cost settlement.
 - (8) Providers may elect to continue to be reimbursed in accordance to the methodology in effect on December 31, 2000. This is a one time irrevocable election that must be done by August 1, 2001.
- (b) Federally qualified health center (FQHCs) services and other ambulatory services shall be furnished by a federally qualified health center.
- (1) Effective January 1, 2001, for the period January 1, 2001 to September 30, 2001, FQHCs are reimbursed 100 per cent of the average of their reasonable costs of providing Medicaid covered core services during fiscal years 1999 and 2000, adjusted to take into account any increase (or decrease) in the scope of services furnished during fiscal year 2001 by the FQHC (calculating the payment amount

- on a per visit basis). Cost caps shall continue to be used, as established by Medicare.
- (2) Effective October 1, 2001, and for each fiscal year thereafter, rates shall be increased by the percentage increase in the Medicare Economic Index for primary care services and adjusted to take into account any increase (decrease) in the scope of services furnished during that fiscal year.
 - (3) Newly qualified FQHCs after fiscal year 2000 will have their initial rates established either by reference to rates paid to other clinics in the same or adjacent areas, or in the absence of such other clinics, through cost reporting methods. Rates for subsequent fiscal years shall be based on the same update methods reflected in Subparagraph (2) of this Paragraph.
 - (4) Core rates established in Subparagraphs (1), (2) and (3) of this Paragraph are prospective and not subject to cost settlement. Medicaid covered services are defined in Section 1861 (aa)(1)(A)-(C) of the Social Security Act.
 - (5) Notwithstanding Subparagraph (1) of this Paragraph, interim fiscal year 2001 rates shall be the rates currently in effect on December 31, 2000, since information needed to establish rates per Subparagraph (1) of this Paragraph is not currently available.
 - (A) These rates shall be adjusted annually in accordance with Subparagraph (2) of this Paragraph.
 - (B) These rates shall be adjusted based on available as filed cost reports, in accordance with Subparagraph (1) of this Paragraph.
 - (C) These rates shall be settled to the permanent prospective rates determined in accordance with Subparagraph (1) of this Paragraph, once audited cost reports become available.
 - (6) The rates established under Subparagraph (1), (2), (3) or (5) of this Paragraph are subject to appeal. In the appeal process, the provider must demonstrate based on the preponderance of evidence that rates should be adjusted to insure the provider's financial viability.
 - (7) Covered non-core services shall continue to be paid on a fee for service basis, subject to annual cost settlement.
 - (8) Providers may elect to continue to be reimbursed in accordance to the methodology in effect on December 31, 2000. This is a one time irrevocable election that must be done by August 1, 2001.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Rule-making Agency: *Environmental Management Commission*

Rule Citation: *15A NCAC 02B .0243-.0244*

Effective Date: *June 30, 2001*

Findings Reviewed and Approved by: *Julian Mann, III*

Authority for the rulemaking: *G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1999, c. 329*

Reason for Proposed Action:

15A NCAC 02B .0243 – *The Clean Water Act of 1999 (House Bill 1160, 1999 Session, Chapter 329) gives authority to the Environmental Management Commission (EMC) to adopt temporary rules to protect water quality in the Cape Fear, Catawba and Tar-Pamlico River basins. The intent of the bill is to allow for development of rules for basinwide buffers or other water quality measures as required. In addition, 26 local governments in a 5-county area of the upper basin submitted local resolutions supporting buffers for the basin. In accordance with the House Bill 1160, two public hearings were held on March 20 and 22, 2001 in Mt. Holly and Valdese, respectively. The text of this temporary rule was noticed in the March 1, 2001 NC Register, again with a 30-day comment period. There were 304 registered attendees at the public hearings, and 119 persons were registered to speak. In addition to the speakers' comments, DWQ received over 400 written comments on the proposed rules. The EMC voted unanimously on May 10, 2001 to adopt the temporary Catawba buffer protection rule.*

15A NCAC 02B .0244 – *In accordance with the Clean Water Act of 1999 (House Bill 1160, 1999 Session, Chapter 329), the EMC developed and adopted the temporary riparian buffer protection rules for the Catawba River mainstem and mainstem lakes from Lake James to Lake Wylie. Neither the Catawba River mainstem above Lake James nor any tributaries to the lakes were included in the temporary rules. Establishing the Mitigation Rule as a temporary rule is necessary to implement the temporary Catawba Buffer Protection Rule. The temporary Catawba Buffer Protection Rule makes numerous references to the Mitigation Rule. Under the temporary Catawba Buffer Protection Rule, certain allowable uses within riparian buffers may not be completed unless mitigation is performed. However, without the adoption of the Mitigation Rule as a temporary rule, there will not be a mitigation program. Therefore, uses within the buffer that the Commission would like to allow provided that mitigation is performed would not be permissible without the Mitigation Rule. The EMC voted unanimously on May 10, 2001 to adopt the temporary Catawba buffer mitigation rule.*

Comment Procedures: *Comments were accepted on this Rule for 30 days as noticed in the NC Register, Vol. 15:17, March 1, 2001.*

History Note: Authority G.S.108A-25(b); 108A-54;1902 (a) of the Social Security Act; Temporary Adoption Eff. May 16, 2001.

CHAPTER 02 – ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02B – SURFACE WATER AND WETLAND STANDARDS

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

15A NCAC 02B .0243 CATAWBA RIVER BASIN: PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS

The following is the management strategy for maintaining and protecting existing riparian buffers along the Catawba River mainstem below Lake James and along mainstem lakes from and including Lake James to the North Carolina and South Carolina border in the Catawba River Basin.

- (1) **PURPOSE.** The purpose of this Rule shall be to protect and preserve existing riparian buffers along the Catawba River mainstem below Lake James and along mainstem lakes from and including Lake James to the North Carolina and South Carolina border in the Catawba River Basin in order to maintain their pollutant removal functions as an aid in protecting the water quality of the lakes and connecting river segments.
- (2) **DEFINITIONS.** For the purpose of this Rule, these terms shall be defined as follows:
 - (a) "Channel" means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water. (current definition in Forest Practice Guidelines Related to Water Quality, 15A NCAC 01I .0102)
 - (b) "Forest plantation" means an area of planted trees that may be conifers (pines) or hardwoods. On a plantation, the intended crop trees are planted rather than naturally regenerated from seed on the site, coppice (sprouting), or seed that is blown or carried into the site.
 - (c) "Full Pond Level" is a term used by Duke Energy Inc. that refers to the project water level, referenced to mean sea level, for each of the seven mainstem lakes along the Catawba River. The landward edge of the lakes at full pond level represents the project boundary for each lake.
 - (d) "High Value Tree" means a tree whose stump diameter is equal to or exceeding 18-inch.
 - (e) "Mainstem lakes" means the following impoundments created along the mainstem of the Catawba River: Lake James, Lake Rhodhiss, Lake Hickory, Lookout Shoals Lake,

Lake Norman, Mountain Island Lake and Lake Wylie (North Carolina portion).

- (f) "Shoreline stabilization" is the in-place stabilization of a severely eroding bank. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, rip rap, or gabions, while providing bank stabilization, will not be considered restoration or enhancement in most cases.
 - (g) "Stream restoration" is defined as the process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions.
 - (h) "Stump diameter" means stump diameter of a tree, which is measured at six inches above ground surface level.
 - (i) "Surface water" means all waters of the state as defined in G.S. 143-212 except underground waters.
 - (j) "Temporary road" means a road constructed temporarily for equipment access to build or replace hydraulic conveyance structures, water dependent structures, and/or to maintain public traffic during construction.
 - (k) "Tree" means a woody plant with a stump diameter equal to or exceeding six inches.
- (3) **APPLICABILITY.** This Rule shall apply to a 50-foot wide riparian buffer directly adjacent to surface waters along the Catawba River mainstem below Lake James and along mainstem lakes in the Catawba River Basin, excluding wetlands. Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to 15A NCAC 02H .0506. The riparian buffers protected by this Rule shall be measured pursuant to Item (4) of this Rule. Riparian buffers adjacent to surface waters of the Catawba River mainstem below Lake James and mainstem lakes shall be subject to this Rule unless one of the following applies.
- (a) **EXEMPTION WHEN EXISTING USES ARE PRESENT AND ONGOING.** This Rule shall not

apply to portions of the riparian buffer where a use is existing and ongoing according to the following:

(i) A use shall be considered existing if it was present within the riparian buffer as of June 30, 2001. Existing uses shall include, but not be limited to, agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems. Only the portion of the riparian buffer that contains the footprint of the existing use is exempt from this Rule. Change of ownership through legal purchase or inheritance is not considered a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of the Rule, and existing diffuse flow is maintained. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised, the ground is stabilized and existing diffuse flow is maintained.

(ii) A use shall be considered as existing if projects or proposed development at a minimum have been determined by the Division or the appropriate local government with approved riparian buffer ordinance to meet at least one of the following criteria:

- (A) Project requires a 401 Certification/404 Permit and these were issued prior to June 30, 2001;
- (B) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land

application of residuals and road construction activities, have begun construction or are under contract to begin construction and have received all required state permits prior to June 30, 2001;

(C) Projects that have been determined to have a Vested Right by the NC Attorney General's Office; or,

(D) Projects that have established a Vested Right under North Carolina zoning law as of June 30, 2001.

(b) LOCAL GOVERNMENTS THAT HAVE APPROVED RIPARIAN BUFFER ORDINANCES. All local governments that have land use authority along the Catawba River mainstem below Lake James and along mainstem lakes in the Catawba River Basin may adopt local riparian buffer ordinances to protect water quality. The Division shall approve the local riparian buffer ordinance within 30 days after receiving the request from local governments, if the Division determines that the local riparian buffer ordinance provides equal to or greater water quality protection than this Rule. This Rule shall not apply in any area where a local government has obtained the Division's approval of the local riparian buffer ordinance, provided that the local government is implementing and enforcing the approved local riparian buffer ordinance. The Division, upon determination that the local government is failing to implement or enforce the approved local buffer ordinance, shall notify the local government in writing of the local program inadequacies. If the local government has not corrected the deficiencies within 90 days of receipt of written notification, then the Division shall implement and enforce the provisions of this Rule.

TEMPORARY RULES

- (4) **ZONES OF THE RIPARIAN BUFFER.** The protected riparian buffer shall have two zones as follows:
- (a) Zone 1 shall consist of a forested area that is undisturbed except for uses provided for in Item (6) of this Rule. The location of Zone 1 shall be as follows:
- (i) For the Catawba River mainstem below Lake James, Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the edge of the surface water.
- (ii) For the mainstem lakes located on the Catawba River mainstem, Zone 1 shall begin at the most landward limit of the full pond level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the edge of the full pond level.
- (b) Zone 2 shall consist of a stable, vegetated area that is undisturbed except for activities and uses

provided for in Item (6) of this Rule. Grading and revegetating Zone 2 is allowed provided that the health of the vegetation in Zone 1 is not compromised. Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to a vertical line marking the edge of Zone 1. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water along the Catawba River mainstem below Lake James and along mainstem lakes in the Catawba River Basin.

- (5) **DIFFUSE FLOW REQUIREMENT.** Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow and reestablishing vegetation.
- (a) Concentrated runoff from new ditches or manmade conveyances shall be converted to diffuse flow before the runoff enters Zone 2 of the riparian buffer.
- (b) Periodic corrective action to restore diffuse flow shall be taken if necessary to impede the formation of erosion gullies.
- (6) **TABLE OF USES.** The following chart sets out the uses and their designation under this Rule as exempt, allowable, or allowable with mitigation. Any uses, which are not listed in the table, shall be considered as prohibited. The requirements for each category are given in Item (7) of this Rule.

	Exempt	Allowable	Allowable with Mitigation
<u>Access trails or roads for accessing activities allowed in this Rule, such as water dependent activities:</u> <ul style="list-style-type: none"> • <u>Access trails to the surface water provided that installation and use does not result in removal of trees as defined in this Rule</u> • <u>Pedestrian access trails to the surface water that are restricted to the minimum width practicable but do not exceed 7 feet in width of buffer disturbance, and provided that no impervious surface is added to the riparian buffer</u> • <u>Vehicular access roads to the surface water but not crossing the surface water that are restricted to the minimum width practicable not to exceed 15 feet in width</u> • <u>Vehicular access roads to the surface water but not crossing the surface water that are restricted to the minimum width practicable and exceed 15 feet in width</u> 			
<u>Airport facilities:</u> <ul style="list-style-type: none"> • <u>Airport or airstrip facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer</u> • <u>Airport or airstrip facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer</u> 		X	X

TEMPORARY RULES

Archaeological activities	<u>X</u>		
Bridges		<u>X</u>	
Canoe Access provided that installation and use does not result in removal of trees as defined in this Rule and no impervious surface is added to the buffer	<u>X</u>		
Dam maintenance activities	<u>X</u>		
Drainage ditches, roadside ditches and stormwater outfalls through riparian buffers: <ul style="list-style-type: none"> • Existing drainage ditches, roadside ditches, and stormwater outfalls provided that they are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies • New drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control pollutants and attenuate flow before the conveyance discharges through the riparian buffer 	<u>X</u>	<u>X</u>	
Driveway crossings of surface waters subject to this Rule: <ul style="list-style-type: none"> • Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer • Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer • In a subdivision that cumulatively disturbs equal to or less than 150 linear feet or one-third of an acre of riparian buffer • In a subdivision that cumulatively disturbs greater than 150 linear feet or one-third of an acre of riparian buffer 	<u>X</u>	<u>X</u> <u>X</u>	<u>X</u>
Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this Rule	<u>X</u>		
Forest harvesting - see Item (11) of this Rule			
Grading and revegetation in Zone 2 only provided that diffuse flow and the health of existing vegetation in Zone 1 is not compromised and disturbed areas are stabilized	<u>X</u>		
Greenway / hiking trails		<u>X</u>	
Historic preservation	<u>X</u>		
Mining activities: <ul style="list-style-type: none"> • Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of Items (4) and (5) of this Rule are established adjacent to the relocated channels • Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of Items (4) and (5) of this Rule are not established adjacent to the relocated channels 		<u>X</u>	<u>X</u>
Non-electric utility lines: <ul style="list-style-type: none"> • Impacts other than perpendicular crossings in Zone 2 only³ • Impacts other than perpendicular crossings in Zone 1³ 		<u>X</u>	<u>X</u>
Non-electric utility line perpendicular crossings of surface waters subject to this Rule ³ : <ul style="list-style-type: none"> • Perpendicular crossings that disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width • Perpendicular crossings that disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width 	<u>X</u>	<u>X</u> <u>X</u>	

TEMPORARY RULES

<ul style="list-style-type: none"> • <u>Perpendicular crossings that disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width</u> • <u>Perpendicular crossings that disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width</u> • <u>Perpendicular crossings that disturb greater than 150 linear feet of riparian buffer</u> 			<p><u>X</u></p> <p><u>X</u></p>
<u>Overhead electric utility lines:</u> <ul style="list-style-type: none"> • <u>Impacts other than perpendicular crossings in Zone 2 only³</u> • <u>Impacts other than perpendicular crossings in Zone 1^{1,2,3}</u> 	<p><u>X</u></p> <p><u>X</u></p>		
<u>Overhead electric utility line perpendicular crossings of surface waters subject to this Rule³:</u> <ul style="list-style-type: none"> • <u>Perpendicular crossings that disturb equal to or less than 150 linear feet of riparian buffer¹</u> • <u>Perpendicular crossings that disturb greater than 150 linear feet of riparian buffer^{1,2}</u> 	<p><u>X</u></p>	<p><u>X</u></p>	

¹ Provided that, in Zone 1, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Division.

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain where trees are cut.
- Rip rap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

² Provided that poles or towers shall not be installed within 10 feet of a water body unless the Division completes a no practical alternative evaluation.

³ Perpendicular crossings are those that intersect the surface water at an angle between 75° and 105°. New water intakes and new outfall lines which may be required to extend to or cross part of waterbodies will be implemented and enforced under this category.

	<u>Exempt</u>	<u>Allowable</u>	<u>Allowable with Mitigation</u>
<u>Playground equipment:</u> <ul style="list-style-type: none"> • <u>Playground equipment provided that installation and use does not result in removal of vegetation</u> • <u>Playground equipment provided that installed and use requires removal of vegetation</u> 	<p><u>X</u></p>	<p><u>X</u></p>	
<u>Properties that have been subdivided by an approved preliminary subdivision plat⁴ within 2 years prior to June 30, 2001 for conventional subdivisions and within 5 years prior to June 30, 2001 for phased subdivisions:</u> <ul style="list-style-type: none"> • <u>Uses in Zone 2 provided that the ground is stabilized and diffuse flow is maintained</u> • <u>Uses in Zone 1 provided that the ground is stabilized and diffuse flow is maintained. On-site waste systems, septic tanks and drainfields are not allowed in Zone 1</u> 			
<u>Properties that are included on a recorded subdivision plan prior to June 30, 2001:</u> <ul style="list-style-type: none"> • <u>Uses in Zone 2 provided that the ground is stabilized and diffuse flow is maintained</u> • <u>Uses in Zone 1 provided that the ground is stabilized and</u> 			

TEMPORARY RULES

<u>diffuse flow is maintained. On-site waste systems, septic tanks and drainfields are not allowed in Zone 1</u>			
<u>Protection of existing structures, facilities and shoreline when this requires additional disturbance of the riparian buffer or the channel</u>		<u>X</u>	
<u>Pumps for agricultural irrigation in Zone 1 provided that installation and use does not result in removal of trees as defined in this Rule</u>		<u>X</u>	

⁴ The submitted preliminary subdivision plat shall include but not limited to all the following information:

- Total acreage of land proposed for platting.
- The boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown, including dimensions of all lot lines.
- Location and use of all existing and proposed easements. This includes easements for drainage and utilities.
- Location, width of rights-of-way and all proposed streets.
- Location of all utilities installations.
- Distance to nearest public water supply and sanitary sewerage systems.
- Significant natural features including existing riparian buffer areas, existing wetlands, lakes or rivers, or other natural features affecting the site.
- Existing physical features including buildings, streets, railroads, power lines, drainage ways, sewer and water or spring heads, and town limit lines both to or adjacent to the land to be subdivided.

	<u>Exempt</u>	<u>Allowable</u>	<u>Allowable with Mitigation</u>
<u>Railroad impacts other than crossings of surface waters subject to this Rule</u>			<u>X</u>
<u>Recreational and accessory structures such as decks, gazebos, and sheds with a footprint of less than 150 square feet provided that the structures are elevated above pervious ground, that installation does not result in removal of trees as defined in this Rule, and that they are not otherwise prohibited under the local water supply watershed ordinance</u>	<u>X</u>		
<u>Removal of previous fill or debris provided that diffuse flow is maintained and any vegetation removed is restored</u>	<u>X</u>		
<u>Road impacts other than crossings of surface waters subject to this Rule</u>			<u>X</u>
<u>Road crossings of surface waters subject to this Rule:</u> <ul style="list-style-type: none"> • <u>Road crossings that impact equal to or less than 40 linear feet of riparian buffer</u> • <u>Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer</u> • <u>Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer</u> 	<u>X</u>	<u>X</u>	<u>X</u>
<u>Scientific studies and gauging station</u>	<u>X</u>		
<u>Stormwater management ponds excluding dry ponds:</u> <ul style="list-style-type: none"> • <u>New stormwater management ponds provided that a riparian buffer that meets the requirements of Items (4) and (5) of this Rule is established adjacent to the pond</u> • <u>New stormwater management ponds where a riparian buffer that meets the requirements of Items (4) and (5) of this Rule is NOT established adjacent to the pond</u> 		<u>X</u>	<u>X</u>
<u>Stream restoration with approved 401 Certification / 404 Permit</u>	<u>X</u>		
<u>Shoreline stabilization</u>		<u>X</u>	
<u>Temporary roads:</u>			

TEMPORARY RULES

<ul style="list-style-type: none"> • <u>Temporary roads that disturb less than or equal to 2,500 square feet provided that vegetation is restored within six months of initial disturbance</u> • <u>Temporary roads that disturb greater than 2,500 square feet provided that vegetation is restored within six months of initial disturbance</u> • <u>Temporary roads used for culvert installation, bridge construction or replacement provided that restoration activities, such as soil stabilization and revegetation, are conducted immediately after construction</u> 	X			
<p><u>Temporary sediment and erosion control devices:</u></p> <ul style="list-style-type: none"> • <u>In Zone 2 only provided that the vegetation in Zone 1 is not compromised and that discharge is released as diffuse flow in accordance with Item (5) of this Rule</u> • <u>In Zones 1 and 2 to control impacts associated with uses approved by the Division or that have received a variance provided that sediment and erosion control for upland areas is addressed to the maximum extent practical outside the buffer</u> • <u>In-stream temporary erosion and sediment control measures for work within a stream channel</u> 	X			
<p><u>Underground electric utility lines:</u></p> <ul style="list-style-type: none"> • <u>Impacts other than perpendicular crossings in Zone 2 only⁵</u> • <u>Impacts other than perpendicular crossings in Zone 1^{3,5}</u> 	X X			
<p><u>Underground electric utility line perpendicular crossings of surface waters subject to this Rule:⁵</u></p> <ul style="list-style-type: none"> • <u>Perpendicular crossings that disturb less than or equal to 40 linear feet of riparian buffer⁵</u> • <u>Perpendicular crossings that disturb greater than 40 linear feet of riparian buffer⁵</u> 	X			X
<p><u>View corridors - thinning of underbrush, shrubs, and low-hanging limbs to enhance a lake view provided soils are undisturbed.</u></p>	X			

⁵ Provided that, in Zone 1, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Division.

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench, where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

	<u>Exempt</u>	<u>Allowable</u>	<u>Allowable with Mitigation</u>
<p><u>Vegetation management:</u></p> <ul style="list-style-type: none"> • <u>Emergency fire control measures provided that topography is restored</u> • <u>Periodic mowing and harvesting of plant products in Zone 2 only</u> • <u>Planting vegetation to improve water quality protection function of the riparian buffer</u> • <u>Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised</u> 	X X X X X		

TEMPORARY RULES

<ul style="list-style-type: none"> • <u>Removal of individual trees which are in danger of causing damage to dwellings, other structures or human life</u> • <u>Removal of individual trees which are dead, diseased or damaged</u> • <u>Removal of poison ivy</u> • <u>Removal of understory nuisance vegetation as defined in:</u> <u>Smith, Cherri L. 1998. Exotic Plant Guidelines.</u> <u>Department of Environment and Natural Resources.</u> <u>Division of Parks and Recreation. Raleigh, NC. Guideline #30</u> 	X		
<u>Water dependent structures as defined in 15A NCAC 02B .0202</u>	X		
<u>Water wells</u>	X		
<u>Wetland restoration</u>	X		

(7) REQUIREMENTS FOR CATEGORIES OF USES. Uses designated as exempt, allowable, allowable with mitigation in Item (6) of this Rule and prohibited in this Rule shall have the following requirements:

- (a) EXEMPT. Uses designated as exempt are allowed within the riparian buffer. Exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable. In addition, exempt uses shall meet requirements listed in Item (6) of this Rule for the specific use.
- (b) ALLOWABLE. Uses designated as allowable may proceed within the riparian buffer provided that there are no practical alternatives to the requested use pursuant to Item (8) of this Rule. These uses require written authorization from the Division or the local government with approved riparian buffer ordinance.
- (c) ALLOWABLE WITH MITIGATION. Uses designated as allowable with mitigation may proceed within the riparian buffer provided that there are no practical alternatives to the requested use pursuant to Item (8) of this Rule and an appropriate mitigation strategy has been approved pursuant to Item (10) of this Rule. These uses require written authorization from the Division or the local government with approved riparian buffer ordinance.
- (d) PROHIBITED. All uses not designated as exempt, allowable or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer unless a variance is granted pursuant

to Item (9) of this Rule. Mitigation may be required as one condition of a variance approval.

(8) DETERMINATION OF "NO PRACTICAL ALTERNATIVES." Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Division or to the local government with approved riparian buffer ordinance. The applicant shall certify that the criteria identified in Sub-Item (8)(a) of this Rule are met. The Division or the local government with approved riparian buffer ordinance shall grant an Authorization Certificate upon a "no practical alternatives" determination. The procedure for making an Authorization Certificate shall be as follows:

- (a) For any request for an Authorization Certificate, the Division or the local government with approved riparian buffer ordinance shall review the entire project and make a finding of fact as to whether the following requirements have been met in support of a "no practical alternatives" determination:
 - (i) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
 - (ii) The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality.
 - (iii) Best management practices shall be used if necessary to

- minimize disturbance, preserve aquatic life and habitat, and protect water quality.
- (b) Requests for an Authorization Certificate shall be reviewed and either approved or denied within 60 days of receipt of a complete submission based on the criteria in Sub-Item (8)(a) of this Rule by either the Division or the local government with approved riparian buffer ordinance. Failure to issue an approval or denial within 60 days shall constitute that the applicant has demonstrated "no practical alternatives." The Division or the local government with approved riparian buffer ordinance may attach conditions to the Authorization Certificate that support the purpose, spirit and intent of the riparian buffer protection program. Complete submissions shall include the following:
- (i) The name, address and phone number of the applicant;
 - (ii) The nature of the activity to be conducted by the applicant;
 - (iii) The location of the activity, including the jurisdiction;
 - (iv) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
 - (v) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and
 - (vi) Plans for any best management practices proposed to be used to control the impacts associated with the activity.
- (c) Any disputes over determinations regarding Authorization Certificates shall be referred to the Director for a decision. The Director's decision is

subject to review as provided in G.S. 150B, Articles 3 and 4.

- (9) VARIANCES. Persons who wish to undertake uses designated as prohibited may pursue a variance. The Division or the appropriate local government with approved riparian buffer ordinance shall make all of the following findings of fact and may grant variances. The variance request procedure shall be as follows:

(a) For any variance request, the Division or the local government with approved riparian buffer ordinance shall make all of the finding of fact to insure that the following requirements have been met:

(i) There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of the riparian buffer protection requirements. Practical difficulties or unnecessary hardships shall be evaluated in accordance with the following:

(A) If the applicant complies with the provisions of this Rule, he/she can secure no reasonable return from, nor make reasonable use of, his/her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance.

Moreover, the Division or the local government with approved riparian buffer ordinance shall consider whether the variance is the minimum possible deviation from the terms of this Rule that shall make reasonable use of the property possible.

(B) The hardship results from

- application of this Rule to the property rather than from other factors such as deed restrictions or other hardship.
- (C) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
- (D) The applicant did not cause the hardship by knowingly or unknowingly violating this Rule.
- (E) The hardship is unique to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
- (ii) The variance is in harmony with the general purpose and intent of the Catawba River Basin's riparian buffer protection requirements and preserves its spirit; and
- (iii) In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.
- (b) Variance requests shall be reviewed and approved based on the criteria in Sub-Item (9)(a) of this Rule by either the Division or the local government with approved riparian buffer ordinance pursuant to G.S. 153A-Article 18, or G.S. 160A-Article 19. The Division or the local government with approved riparian buffer ordinance may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Requests for appeals of decisions made by the Division shall be made to the Office of Administrative Hearings. Request for appeals made by the local government with approved riparian buffer ordinance shall be made to the appropriate Board of Adjustment under G.S. 160A-388 or G.S. 153A-345 for determinations made by the local government with approved riparian buffer ordinance.
- (10) MITIGATION. Persons who wish to undertake uses designated as allowable with mitigation shall meet the following requirements in order to proceed with their proposed use.
- (a) Obtain a determination of "no practical alternatives" to the proposed use pursuant to Item (8) of this Rule.
- (b) Obtain approval for a mitigation proposal pursuant to 15A NCAC 02B .0244.
- (11) REQUIREMENTS SPECIFIC TO FOREST HARVESTING. The following requirements shall apply for forest harvesting operations and practices.
- (a) The following measures shall apply in Zone 1 of the riparian buffer:
- (i) Logging decks and sawmill sites shall not be placed in the riparian buffer.
- (ii) Timber felling shall be directed away from the water body.
- (iii) Skidding shall be directed away from the water body and shall be done in a manner that minimizes soil disturbance and prevents the creation of channels or ruts in accordance with 15A NCAC 01I .0203 as enforced by the Division of Forestry Resources.
- (iv) Individual trees may be treated to maintain or improve their health, form or vigor.
- (v) Harvesting of dead or infected trees or application of pesticides necessary to prevent or control extensive tree pest and disease infestation shall be allowed. These practices must be approved by the Division of

- Forest Resources for a specific site. The Division of Forest Resources must notify the Division of all approvals.
- (vi) Removal of individual trees that are in danger of causing damage to structures or human life shall be allowed.
 - (vii) Natural regeneration of forest vegetation and planting of trees, shrubs, or ground cover plants to enhance the riparian buffer shall be allowed provided that soil disturbance is minimized. Plantings shall consist primarily of native species.
 - (viii) High intensity prescribed burns shall not be allowed.
 - (ix) Application of fertilizer shall not be allowed except as necessary for permanent stabilization. Broadcast application of fertilizer or herbicides to the adjacent forest stand shall be conducted so that the chemicals are not applied directly to or allowed to drift into the riparian buffer.
- (b) In Zone 1, forest vegetation shall be protected and maintained. Selective harvest as provided for below is allowed on forest lands that have a deferment for use value under forestry in accordance with G.S. 105-277.2 through G.S. 277.6 or on forest lands that have a forest management plan prepared or approved by a registered professional forester. Copies of either the approval of the deferment for use value under forestry or the forest management plan shall be produced upon request. For such forest lands, selective harvest is allowed in accordance with the following:
- (i) Tracked or wheeled vehicles are not permitted except at stream crossings designed, constructed and maintained in accordance with 15A NCAC 01I .0203 as enforced by the Division of Forestry Resources.
 - (ii) Soil disturbing site preparation activities are not allowed.
 - (iii) Trees shall be removed with the minimum disturbance to
- the soil and residual vegetation.
- (iv) The following provisions for selective harvesting shall be met:
- (A) The first 10 feet of Zone 1 directly adjacent to the stream or waterbody shall be undisturbed except for the removal of individual high value trees as defined.
 - (B) In the outer 20 feet of Zone 1, trees greater than 12-inch diameter stump may be cut and removed. The reentry time for harvest shall be no more frequent than every 15 years, except on forest plantations where the reentry time shall be no more frequent than every five years. In either case, the trees remaining after harvest shall be as evenly spaced as possible.
 - (C) In Zone 2, harvesting and regeneration of the forest stand shall be allowed in accordance with 15A NCAC 01I .0100 – .0200 as enforced by the Division of Forestry Resources.
- (12) OTHER LAWS, REGULATIONS AND PERMITS. In all cases, compliance with this Rule does not preclude the requirement to comply with all federal, state and local regulations and laws.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1999, c. 329, s. 7.1; Temporary Adoption Eff. June 30, 2001.

15A NCAC 02B .0244 CATAWBA RIVER BASIN: MITIGATION PROGRAM FOR PROTECTION AND MAINTENANCE OF EXISTING RIPARIAN BUFFERS IN THE CATAWBA RIVER BASIN

TEMPORARY RULES

The following are the requirements for the Riparian Buffer Mitigation Program for the Catawba River Basin.

- (1) PURPOSE. The purpose of this Rule is to set forth the mitigation requirements that apply to maintain and protect existing riparian buffers on the Catawba River mainstem below Lake James and mainstem lakes from and including Lake James to the North Carolina/South Carolina border in the Catawba River Basin, as described in Rule 15A NCAC 02B .0243.
- (2) APPLICABILITY. This Rule applies to persons who wish to impact a riparian buffer in the Catawba Basin when one of the following applies:
 - (a) A person has received an Authorization Certificate pursuant to 15A NCAC 02B .0243 for a proposed use that is designated as "allowable with mitigation."
 - (b) A person has received a variance pursuant to 15A NCAC 02B .0243 and is required to perform mitigation as a condition of a variance approval.
- (3) THE AREA OF MITIGATION. The required area of mitigation shall be determined by either the Division or a local government with an approved riparian buffer ordinance according to the following:
 - (a) The impacts in square feet to each zone of the riparian buffer shall be determined by the Division or a local government with an approved riparian buffer ordinance by adding the following:
 - (i) The area of the footprint of the use causing the impact to the riparian buffer.
 - (ii) The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use.
 - (iii) The area of any ongoing maintenance corridors within the riparian buffer associated with the use.
 - (b) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in Sub-item (3)(a) of this Rule to each zone of the riparian buffer:
 - (i) Impacts to Zone 1 of the riparian buffer shall be multiplied by 2.
 - (ii) Impacts to Zone 2 of the riparian buffer shall be multiplied by 1.5.
- (4) THE LOCATION OF MITIGATION. The mitigation effort shall be the same distance from the Catawba River as the proposed

impact and as close to the location of the impact as feasible.

- (5) ISSUANCE OF THE MITIGATION DETERMINATION. The Division or a local government with an approved buffer program shall issue a mitigation determination that specifies the required area and location of mitigation pursuant to Items (3) and (4) of this Rule.
- (6) OPTIONS FOR MEETING THE MITIGATION DETERMINATION. The mitigation determination made pursuant to Item (5) of this Rule may be met through one of the following options:
 - (a) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to Item (7) of this Rule.
 - (b) Donation of real property or of an interest in real property pursuant to Item (8) of this Rule.
 - (c) Restoration or enhancement of a non-forested riparian buffer. This shall be accomplished by the applicant after submittal and approval of a restoration plan pursuant to Item (9) of this Rule.
- (7) PAYMENT TO THE RIPARIAN BUFFER RESTORATION FUND. Persons who choose to satisfy their mitigation determination by paying a compensatory mitigation fee to the Riparian Buffer Restoration Fund shall meet the following requirements:
 - (a) SCHEDULE OF FEES: The amount of payment into the Fund shall be determined by square feet of mitigation determination made pursuant to Item (5) of this Rule by ninety-six cents per square foot.
 - (b) The required fee shall be submitted to the Division of Water Quality, Wetlands Restoration Program, Mail Service Center 1619, Raleigh, NC 27699-1619 prior to any activity that results in the removal or degradation of the protected riparian buffer for which a "no practical alternatives" determination has been made.
 - (c) The payment of a compensatory mitigation fee may be fully or partially satisfied by donation of real property interests pursuant to Item (8) of this Rule.
 - (d) The Division shall review the fee outlined in Sub-item (7)(a) of this Rule every two years and compare it to the actual cost of restoration activities conducted by the Department, including site identification, planning, implementation, monitoring and

maintenance costs. Based upon this biennial review, the Division shall recommend revisions to Sub-item (7)(a) of this Rule when adjustments to this Schedule of Fees are deemed necessary.

(8) DONATION OF PROPERTY. Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

(a) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to Item (7) of this Rule. The value of the property interest shall be determined by an appraisal performed in accordance with Sub-item (8)(d)(iv) of this Rule. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to Sub-item (7)(a) of this Rule, the applicant shall pay the remaining balance due.

(b) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

(c) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

(i) The property shall be located within an area that is identified as a priority for restoration in the Basinwide Wetlands and Riparian Restoration Plan for the Catawba River Basin developed by the Department pursuant to G.S. 143-214.10 or shall be located at a site that is otherwise consistent with the goals outlined in Basinwide Wetlands and Riparian Restoration Plan for the Catawba River Basin.

(ii) The property shall contain riparian buffers not currently protected by the State's riparian buffer protection

program that are in need of restoration.

(iii) The restorable riparian buffer on the property shall have a minimum length of 1000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water.

(iv) The size of the restorable riparian buffer on the property to be donated shall equal or exceed the acreage of riparian buffer required to be mitigated under the mitigation responsibility determined pursuant to Item (3) of this Rule.

(v) The property shall not require excessive measures for successful restoration, such as removal of structures or infrastructure. Restoration of the property shall be capable of fully offsetting the adverse impacts of the requested use.

(vi) The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation.

(vii) The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and land acquisition costs.

(ix) The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended.

(x) The property shall not contain any hazardous substance or solid waste.

(xi) The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and

- local health and safety regulations.
- (xii) The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort.
- (xiii) The property shall not have any encumbrances or conditions on the transfer of the property interests.
- (d) At the expense of the applicant or donor, the following information shall be submitted to the Division with any proposal for donations or dedications of interest in real property:
- (i) Documentation that the property meets the requirements laid out in Sub-Item (8)(c) of this Rule.
- (ii) US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements.
- (iii) A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in "Standards of Practice for Land Surveying in North Carolina." Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609.
- (iv) A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the "Uniform Standards of Professional North Carolina Appraisal Practice." Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734.
- (v) A title certificate.
- (9) RIPARIAN BUFFER RESTORATION OR ENHANCEMENT. Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:
- (a) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:
- (i) The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to Item (3) of this Rule.
- (ii) The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to Item (3) of this Rule.
- (b) The location of the riparian buffer restoration or enhancement shall comply with the requirements in Item (4) of this Rule.
- (c) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water.
- (d) The applicant shall first receive an Authorization Certificate for the proposed use according to the requirements of 15A NCAC 02B .0243. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Division. The restoration or enhancement plan shall contain the following.
- (i) A map of the proposed restoration or enhancement site.
- (ii) A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity.

TEMPORARY RULES

(iii) A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer.

(iv) A fertilization plan.

(v) A schedule for implementation.

(e) Within one year after the Division has approved the restoration or enhancement plan, the applicant shall present proof to the Division that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of the State or a local riparian buffer ordinance.

(f) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions.

(g) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); S.L. 1999, c. 329, s. 7.1; Temporary Adoption Eff. June 30, 2001.

Rule-making Agency: DHHS/Division of Public Health

Rule Citation: 15A NCAC 19A .0101

Effective Date: June 1, 2001

Findings Reviewed and Approved by: Beecher R. Gray

Authority for the rulemaking: G.S. 130A-134; 130A-135; 130A-139; 130A-141

Reason for Proposed Action: Outbreaks of this disease seriously threaten public health. A recent outbreak caused five fetal deaths in one North Carolina county. Requirement of prompt reporting of cases of this disease will enable the State Public Health Program to deal with outbreaks faster and more efficiently than currently is the case.

Comment Procedures: Written comments concerning this rule-making action may be submitted within 60 days after the date of publication in this issue of the North Carolina Register. Comments must be submitted to Chris Hoke, Rule-Making

Coordinator, Division of Public Health, 2001 Mail Service Center, Raleigh, NC 27699-2001.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19A – COMMUNICABLE DISEASE CONTROL

SECTION .0100 – REPORTING OF COMMUNICABLE DISEASES

15A NCAC 19A .0101 REPORTABLE DISEASES AND CONDITIONS

(a) The following named diseases and conditions are declared to be dangerous to the public health and are hereby made reportable within the time period specified after the disease or condition is reasonably suspected to exist:

- (1) acquired immune deficiency syndrome (AIDS) - 7 days;
(2) anthrax - 24 hours;
(3) botulism - 24 hours;
(4) brucellosis - 7 days;
(5) campylobacter infection - 24 hours;
(6) chancroid - 24 hours;
(7) chlamydial infection (laboratory confirmed) - 7 days;
(8) cholera - 24 hours;
(9) cryptosporidiosis - 24 hours;
(10) cyclosporiasis - 24 hours;
(11) dengue - 7 days;
(12) diphtheria - 24 hours;
(13) E. coli O157:H7 infection - 24 hours;
(14) ehrlichiosis - 7 days;
(15) encephalitis, arboviral - 7 days;
(16) enterococci, vancomycin-resistant, from normally sterile site - 7 days;
(17) foodborne disease, including but not limited to Clostridium perfringens, staphylococcal, and Bacillus cereus - 24 hours;
(18) gonorrhea - 24 hours;
(19) granuloma inguinale - 24 hours;
(20) Haemophilus influenzae, invasive disease - 24 hours;
(21) Hemolytic-uremic syndrome/thrombotic thrombocytopenic purpura - 24 hours;
(22) hepatitis A - 24 hours;
(23) hepatitis B - 24 hours;
(24) hepatitis B carriage - 7 days;
(25) hepatitis C, acute - 7 days;
(26) human immunodeficiency virus (HIV) infection confirmed - 7 days;
(27) legionellosis - 7 days;
(28) leptospirosis - 7 days;
(29) listeriosis - 24 hours;
(30) Lyme disease - 7 days;
(31) lymphogranuloma venereum - 7 days;
(32) malaria - 7 days;
(33) measles (rubeola) - 24 hours;
(34) meningitis, pneumococcal - 7 days;
(35) meningococcal disease - 24 hours;
(36) mumps - 7 days;

TEMPORARY RULES

- | | |
|---|---|
| <p>(37) nongonococcal urethritis - 7 days;</p> <p>(38) plague - 24 hours;</p> <p>(39) poliomyelitis - 24 hours;</p> <p>(40) psittacosis - 7 days;</p> <p>(41) Q fever - 7 days;</p> <p>(42) rabies, human - 24 hours;</p> <p>(43) Rocky Mountain spotted fever - 7 days;</p> <p>(44) rubella - 24 hours;</p> <p>(45) rubella congenital syndrome - 7 days;</p> <p>(46) salmonellosis - 24 hours;</p> <p>(47) shigellosis - 24 hours;</p> <p>(48) streptococcal infection, Group A, invasive disease - 7 days;</p> <p>(49) syphilis - 24 hours;</p> <p>(50) tetanus - 7 days;</p> <p>(51) toxic shock syndrome - 7 days;</p> <p>(52) toxoplasmosis, congenital - 7 days;</p> <p>(53) trichinosis - 7 days;</p> <p>(54) tuberculosis - 24 hours;</p> <p>(55) tularemia - 24 hours;</p> <p>(56) typhoid - 24 hours;</p> <p>(57) typhoid carriage (<i>Salmonella typhi</i>) - 7 days;</p> <p>(58) typhus, epidemic (louse-borne) - 7 days;</p> <p>(59) vibrio infection (other than cholera) - 24 hours;</p> <p>(60) whooping cough - 24 hours;</p> <p>(61) yellow fever - 7 days.</p> <p>(b) For purposes of reporting; confirmed human immunodeficiency virus (HIV) infection is defined as a positive virus culture; repeatedly reactive EIA antibody test confirmed by western blot or indirect immunofluorescent antibody test; positive polymerase chain reaction (PCR) test; or other confirmed testing method approved by the Director of the State Public Health Laboratory conducted on or after February 1, 1990. In selecting additional tests for approval, the Director of the State Public Health Laboratory shall consider whether such tests have been approved by the federal Food and Drug Administration, recommended by the federal Centers for Disease Control and Prevention, and endorsed by the Association of State and Territorial Public Health Laboratory Directors.</p> <p>(c) In addition to the laboratory reports for <i>Mycobacterium tuberculosis</i>, <i>Neisseria gonorrhoeae</i>, and syphilis specified in G.S. 130A-139, laboratories shall report:</p> <p>(1) Isolation or other specific identification of the following organisms or their products from human clinical specimens:</p> <p>(A) Any hantavirus.</p> <p>(B) <i>Bacillus anthracis</i>, the cause of anthrax.</p> <p>(C) <i>Bordetella pertussis</i>, the cause of whooping cough (pertussis).</p> <p>(D) <i>Brucella spp.</i>, the causes of brucellosis.</p> <p>(E) <i>Campylobacter spp.</i>, the causes of campylobacteriosis.</p> <p>(F) <i>Clostridium botulinum</i>, a cause of botulism.</p> <p>(G) <i>Clostridium tetani</i>, the cause of tetanus.</p> <p>(H) <i>Corynebacterium diphtheriae</i>, the cause of diphtheria.</p> | <p>(I) <i>Coxiella burnetii</i>, the cause of Q fever.</p> <p>(J) <i>Cryptosporidium parvum</i>, the cause of human cryptosporidiosis.</p> <p>(K) <i>Cyclospora cayetanensis</i>, the cause of cyclosporiasis.</p> <p>(L) <i>Ehrlichia spp.</i>, the causes of ehrlichiosis.</p> <p>(M) <i>Escherichia coli</i> O157:H7, a cause of hemorrhagic colitis, hemolytic uremic syndrome, and thrombotic thrombocytopenic purpura.</p> <p>(N) <i>Francisella tularensis</i>, the cause of tularemia.</p> <p>(O) Hepatitis B virus or any component thereof, such as hepatitis B surface antigen.</p> <p>(P) Human Immunodeficiency Virus, the virus associated with AIDS.</p> <p>(Q) <i>Legionella spp.</i>, the causes of legionellosis.</p> <p>(R) <i>Leptospira spp.</i>, the causes of leptospirosis.</p> <p>(S) <i>Listeria monocytogenes</i>, the cause of listeriosis</p> <p>(T) Rabies virus.</p> <p>(U) <i>Rickettsia rickettsii</i>, the cause of Rocky Mountain spotted fever.</p> <p>(V) <i>Salmonella spp.</i>, the causes of salmonellosis.</p> <p>(W) <i>Shigella spp.</i>, the causes of shigellosis.</p> <p>(X) <i>Trichinella spiralis</i>, the cause of trichinosis.</p> <p>(Y) <i>Vibrio spp.</i>, the causes of cholera and other vibrioses.</p> <p>(Z) <i>Yersinia pestis</i>, the cause of plague.</p> <p>(2) Isolation or other specific identification of the following organisms from normally sterile human body sites:</p> <p>(A) Group A <i>Streptococcus pyogenes</i> (group A streptococci).</p> <p>(B) <i>Haemophilus influenzae</i>, serotype b.</p> <p>(C) <i>Neisseria meningitidis</i>, the cause of meningococcal disease.</p> <p>(D) Vancomycin-resistant <i>Enterococcus spp.</i></p> <p>(3) Positive serologic test results, as specified, for the following infections:</p> <p>(A) Fourfold or greater changes or equivalent changes in serum antibody titers to:</p> <p>(i) Any arthropod-borne viruses associated with meningitis or encephalitis in a human.</p> <p>(ii) Any hantavirus.</p> <p>(iii) <i>Chlamydia psittaci</i>, the cause of psittacosis.</p> <p>(iv) <i>Coxiella burnetii</i>, the cause of Q fever.</p> <p>(v) Dengue virus.</p> |
|---|---|

TEMPORARY RULES

- (vi) Ehrlichia spp., the causes of ehrlichiosis.
(vii) Measles (rubeola) virus.
(viii) Mumps virus.
(ix) Rickettsia rickettsii, the cause of Rocky Mountain spotted fever.
(x) Rubella virus.
(B) The presence of IgM serum antibodies to:
(i) Hepatitis A virus.
(ii) Hepatitis B virus core antigen.
(iii) Rubella virus.
(iv) Rubeola (measles) virus.

woman having a right to refuse the test. The NC AIDS Advisory Council, following a discussion of this issue, proposed that the existing rule on counseling and testing be modified to more directly reflect the recommendations of these national bodies.

Comment Procedures: Written comments concerning this rule-making action may be submitted within 60 days after the date of publication in this issue of the North Carolina Register. Comments must be submitted to Chris Hoke, Rule-Making Coordinator, Division of Public Health, 2001 Mail Service Center, Raleigh, NC 27699-2001.

CHAPTER 19 - HEALTH: EPIDEMIOLOGY

SUBCHAPTER 19A - COMMUNICABLE DISEASE CONTROL

SECTION .0100 - REPORTING OF COMMUNICABLE DISEASES

15A NCAC 19A .0202 CONTROL MEASURES - HIV

The following are the control measures for the Acquired Immune Deficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) infection:

- (1) Infected persons shall:
(a) refrain from sexual intercourse unless condoms are used; exercise caution when using condoms due to possible condom failure;
(b) not share needles or syringes, or any other drug-related equipment, paraphernalia, or works that may be contaminated with blood through previous use;
(c) not donate or sell blood, plasma, platelets, other blood products, semen, ova, tissues, organs, or breast milk;
(d) have a skin test for tuberculosis;
(e) notify future sexual intercourse partners of the infection; if the time of initial infection is known, notify persons who have been sexual intercourse and needle partners since the date of infection; and, if the date of initial infection is unknown, notify persons who have been sexual intercourse and needle partners for the previous year.
(2) The attending physician shall:
(a) give the control measures in Item (1) of this Rule to infected patients, in accordance with 15A NCAC 19A .0210;
(b) If the attending physician knows the identity of the spouse of an HIV-infected patient and has not, with the consent of the infected patient, notified and counseled the spouse appropriately, the physician shall list the spouse on a form

History Note: Filed as a Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988; Authority G.S. 130A-134; 130A-135; 130A-139; 130A-141; Eff. March 1, 1988; Amended Eff. October 1, 1994; February 1, 1990. Temporary Amendment Eff. July 1, 1997; Amended Eff. August 1, 1998; Temporary Amendment Eff. June 1, 2001.

Rule-making Agency: DHHS - Division of Public Health

Rule Citation: 15A NCAC 19A .0202

Effective Date: June 1, 2001

Findings Reviewed and Approved by: Julian Mann

Authority for the rulemaking: G.S. 130A-144; 130A-148

Reason for Proposed Action: In 1994, a NIH study (ACTG 076, in which North Carolina medical providers and facilities played a critical role), concluded that identifying if a woman is HIV+ early in her pregnancy, and providing appropriate medication therapy during the pregnancy and during the actual delivery reduces the risk of perinatal transmission of HIV by almost 2/3. Given these exceptionally dramatic results, the Commission for Health Services implemented an administrative rule to increase the likelihood that a pregnant woman would receive appropriate counseling and testing for HIV disease as early in her pregnancy as possible.

In discussions that have taken place over the past year, the NC Chapter of the American College of Obstetricians and Gynecologist (ACOG), the NC Women's and Children's Health Section, and the NC HIV/STD Prevention and Care Branch have all concurred that North Carolina should strengthen the existing administrative HIV Counseling and Testing rule for pregnant women to increase the likelihood that all pregnant woman receive appropriate counseling and testing for HIV. Nationally, The Institute of Medicine (IOM), US Public Health Service and ACOG all have similar policies recommending that HIV testing should be a routine component of prenatal care. They also support counseling and/or the notification of testing with the

- provided by the Division of Epidemiology and shall mail the form to the Division; the Division will undertake to counsel the spouse; the attending physician's responsibility to notify exposed and potentially exposed persons is satisfied by fulfilling the requirements of Sub-Items (2)(a) and (b) of this Rule;
- (c) advise infected persons concerning proper clean-up of blood and other body fluids;
 - (d) advise infected persons concerning the risk of perinatal transmission and transmission by breastfeeding.
- (3) The attending physician of a child who is infected with HIV and who may pose a significant risk of transmission in the school or day care setting because of open, oozing wounds or because of behavioral abnormalities such as biting shall notify the local health director. The local health director shall consult with the attending physician and investigate the circumstances.
- (a) If the child is in school or scheduled for admission and the local health director determines that there may be a significant risk of transmission, the local health director shall consult with an interdisciplinary committee, which shall include appropriate school personnel, a medical expert, and the child's parent or guardian to assist in the investigation and determination of risk. The local health director shall notify the superintendent or private school director of the need to appoint such an interdisciplinary committee.
 - (i) If the superintendent or private school director establishes such a committee within three days of notification, the local health director shall consult with this committee.
 - (ii) If the superintendent or private school director does not establish such a committee within three days of notification, the local health director shall establish such a committee.
 - (b) If the child is in school or scheduled for admission and the local health director determines, after consultation with the committee, that a significant risk of transmission exists, the local health director shall:
 - (i) notify the parents;
 - (ii) notify the committee;
 - (iii) assist the committee in determining whether an adjustment can be made to the student's school program to eliminate significant risks of transmission;
 - (iv) determine if an alternative educational setting is necessary to protect the public health ;
 - (v) instruct the superintendent or private school director concerning appropriate protective measures to be implemented in the alternative educational setting developed by appropriate school personnel; and
 - (vi) consult with the superintendent or private school director to determine which school personnel directly involved with the child need to be notified of the HIV infection in order to prevent transmission and ensure that these persons are instructed regarding the necessity for protecting confidentiality.
- (a) If the child is in day care and the local health director determines that there is a significant risk of transmission, the local health director shall notify the parents that the child must be placed in an alternate child care setting that eliminates the significant risk of transmission.
- (4) When health care workers or other persons have a needlestick or nonsexual non-intact skin or mucous membrane exposure to blood or body fluids that, if the source were infected with HIV, would pose a significant risk of HIV transmission, the following shall apply:
- (a) When the source person is known:
 - (i) The attending physician or occupational health care provider responsible for the exposed person, if other than the attending physician of the person whose blood or body fluids is the source of the exposure, shall notify the attending physician of the source that an exposure has occurred. The attending physician of the source person shall discuss the exposure with the source and

- shall test the source for HIV infection unless the source is already known to be infected. The attending physician of the exposed person shall be notified of the infection status of the source.
- (ii) The attending physician of the exposed person shall inform the exposed person about the infection status of the source, offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred, and, if the source person was HIV infected, give the exposed person the control measures listed in Sub-Items (1)(a) through (c) of this Rule. The attending physician of the exposed person shall instruct the exposed person regarding the necessity for protecting confidentiality.
- (b) When the source person is unknown, the attending physician of the exposed persons shall inform the exposed person of the risk of transmission and offer testing for HIV infection as soon as possible after exposure and at reasonable intervals up to one year to determine whether transmission occurred.
- (c) A health care facility may release the name of the attending physician of a source person upon request of the attending physician of an exposed person.
- (5) The attending physician shall notify the local health director when the physician, in good faith, has reasonable cause to suspect a patient infected with HIV is not following or cannot follow control measures and is thereby causing a significant risk of transmission. Any other person may notify the local health director when the person, in good faith, has reasonable cause to suspect a person infected with HIV is not following control measures and is thereby causing a significant risk of transmission.
- (6) When the local health director is notified pursuant to Item (5) of this Rule, of a person who is mentally ill or mentally retarded, the local health director shall confer with the attending mental health physician or appropriate mental health authority and the physician, if any, who notified the local health director to develop an appropriate plan to prevent transmission.
- (7) The Director of Health Services of the North Carolina Department of Correction and the prison facility administrator shall be notified when any person confined in a state prison is determined to be infected with HIV. If the prison facility administrator, in consultation with the Director of Health Services, determines that a confined HIV infected person is not following or cannot follow prescribed control measures, thereby presenting a significant risk of HIV transmission, the administrator and the Director shall develop and implement jointly a plan to prevent transmission, including making appropriate recommendations to the unit housing classification committee.
- (8) The local health director shall ensure that the health plan for local jails include education of jail staff and prisoners about HIV, how it is transmitted, and how to avoid acquiring or transmitting this infection.
- (9) Local health departments shall provide testing for HIV infection with pre- and post-test counseling at no charge to the patient. Third party payors may only be billed for HIV counseling and testing when such services are provided as a part of family planning and maternal and child health services. By August 1, 1991, the State Health Director shall designate a minimum of 16 local health departments to provide anonymous testing. Beginning September 1, 1991, only cases of confirmed HIV infection identified by anonymous tests conducted at local health departments designated as anonymous testing sites pursuant to this Sub-Item shall be reported in accordance with 15A NCAC 19A .0102(a)(3). All other cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2). Effective September 1, 1994, anonymous testing shall be discontinued and all cases of confirmed HIV infection shall be reported in accordance with 15A NCAC 19A .0102(a)(1) and (2).
- (10) Appropriate counseling for HIV testing shall include risk assessment, risk reduction guidelines, appropriate referrals for medical and psychosocial services, and, when the person tested is found to be infected with HIV, control measures. Pre-test counseling may be done in a group or individually, as long as each individual is provided the opportunity to ask questions in private. Post-test counseling must be individualized.
- (11) A local health department or the Department may release information regarding an infected person pursuant to G.S. 130A-143(3) only when the local health department or the Department has provided direct medical care

TEMPORARY RULES

- to the infected person and refers the person to or consults with the health care provider to whom the information is released.
- (12) Notwithstanding Rule .0201(d) of this Section, a local or state health director may require, as a part of an isolation order issued in accordance with G.S. 130A-145, compliance with a plan to assist the individual to comply with control measures. The plan shall be designed to meet the specific needs of the individual and may include one or more of the following available and appropriate services:
- (a) substance abuse counseling and treatment;
 - (b) mental health counseling and treatment; and
 - (c) education and counseling sessions about HIV, HIV transmission, and behavior change required to prevent transmission.
- (13) The Division of Epidemiology shall conduct a partner notification program to assist in the notification and counseling of partners of HIV infected persons. All partner identifying information obtained as a part of the partner notification program shall be destroyed within two years.

- (14) Every pregnant woman shall be given HIV pre-test counseling, as described in 15A NCAC 19A .0202(10), by her attending physician as early in the pregnancy as possible. At the time this counseling is provided, and after informed consent is obtained, the attending physician shall test the pregnant woman for HIV infection, unless the pregnant woman refuses the HIV test.

History Note: Filed as a Temporary Amendment Eff. January 7, 1991 for a period of 180 days to expire on July 6, 1991; Filed as a Temporary Rule Eff. February 1, 1988, for a period of 180 days to expire on July 29, 1988; Authority G.S. 130A-133; 130A-135; 130A-144; 130A-145; 130A-148(h); Eff. March 1, 1988; Amended Eff. May 1, 1991; February 1, 1990; November 1, 1989; June 1, 1989; Recodified from 15A NCAC 19A .0201 (d) and (e) Eff. June 11, 1991; Amended Eff. August 1, 1995; October 1, 1994; January 4, 1994; October 1, 1992; Temporary Amendment Eff. June 1, 2001.

APPROVED RULES

*This Section includes the Register Notice citation to Rules approved by the Rules Review Commission (RRC) at its meeting of May 17, 2001 pursuant to G.S. 150B-21.17(a)(1) and reported to the Joint Legislative Administrative Procedure Oversight Committee pursuant to G.S. 150B-21.16. The full text of rules is published below when the rules have been approved by RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register. The rules published in full text are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

These rules, unless otherwise noted, will become effective on the 31st legislative day of the 2001 Session of the General Assembly or a later date if specified by the agency unless a bill is introduced before the 31st legislative day that specifically disapproves the rule. If a bill to disapprove a rule is not ratified, the rule will become effective either on the day the bill receives an unfavorable final action or the day the General Assembly adjourns. Statutory reference: G.S. 150B-21.3.

APPROVED RULE CITATION				REGISTER CITATION TO THE
				NOTICE OF TEXT
10	NCAC	26H	.0506*	15:12 NCR
12	NCAC	11	.0502*	15:03 NCR
15A	NCAC	02E	.0502*	15:02 NCR
15A	NCAC	03M	.0506*	15:17 NCR
15A	NCAC	10B	.0208-.0209*	15:10 NCR
15A	NCAC	10C	.0205*	15:10 NCR
15A	NCAC	10C	.0305*	15:10 NCR
15A	NCAC	10C	.0401*	15:10 NCR
15A	NCAC	10C	.0402	15:10 NCR
15A	NCAC	10C	.0404	15:10 NCR
15A	NCAC	10C	.0407*	15:10 NCR
15A	NCAC	10D	.0103*	15:10 NCR
15A	NCAC	10D	.0104	15:10 NCR
15A	NCAC	10F	.0339	15:10 NCR
15A	NCAC	10H	.0901	15:10 NCR
15A	NCAC	10I	.0105	15:10 NCR
16	NCAC	06E	.0301*	15:11 NCR
19A	NCAC	02D	.0601-.0602*	15:05 & 15:16 NCR
21	NCAC	18B	.0209	15:14 NCR
21	NCAC	18B	.0404	15:14 NCR
23	NCAC	02C	.0308*	15:10 NCR
23	NCAC	02D	.0202*	15:10 NCR

TITLE 10 – DEPARTMENT OF HEALTH AND HUMAN SERVICES

10 NCAC 26H .0506 PERSONAL CARE SERVICES

(a) Payment for personal care services in recipient's home, prescribed in accordance with a plan of treatment and provided by a qualified person under supervision of a registered nurse, shall be based on a negotiated hourly fee not to exceed reasonable cost.

(b) The Division of Medical Assistance will enter into contracts with private and public non-medical inpatient institutions using 42 CFR 434-12 for the provision of personal care services for State/County Special Assistance clients residing in adult care homes.

- (1) Effective August 1, 1995 reimbursement for private providers shall be determined by the Division of Medical Assistance based on a capitation per diem fee (fee) derived from review of industry costs and determination of reasonable costs with annual inflation adjustments. The initial fee is based on one hour of services per patient day. Additional

payments may be made utilizing the one hour fee as a factor, for Medicaid eligibles that have a demonstrated need for additional care. The initial one hour fee is computed by adding together the estimated salary, fringes, direct supervision and allowable overhead. Effective January 1, 2000 the cost of medication administration and additional personal care services direct supervision shall be added to the fee. The fee(s) shall be recalculated each year based on the most current annual cost report available to the state. Payments may not exceed the limits set in 42 CFR 447.361. Effective January 1, 2000, private provider payments shall be cost settled with any overpayment repaid to the Division of Medical Assistance. No additional payment to the provider shall be made due to cost settlement. The first cost settlement period shall be the nine months ended September 30, 2000. Subsequently, the annual cost settlement shall be the 12 months ended September 30.

- (2) Effective January 1, 1996 public providers shall be paid on an interim basis using the above method. Payments shall be cost settled with any overpayment repaid to the Division of Medical Assistance. No additional payments to the provider shall be made due to cost settlement.

(c) Changes to the Payment for Services Prospective Plan for Personal Care Services will become effective when the Health Care Financing Administration, U.S. Department of Health and Human Services, approves amendment submitted to HCFA by the Director of the Division of Medical Assistance as #MA 00-01.

History Note: Authority G.S. 108A-25(b); 108A-54; 108A-55; 131D-4.1; 131D-4.2; 1995 S.L. c.507, s. 23.10; 42 C.F.R. 440.170(f);

Eff. January 1, 1986;

Temporary Amendment Eff. April 22, 1996; January 9, 1997;

Amended Eff. August 1, 1998;

Temporary Amendment Eff. January 1, 2000;

Temporary Amendment Expired on October 28, 2000;

Amended Eff. August 1, 2002.

TITLE 12 – DEPARTMENT OF JUSTICE

12 NCAC 11 .0502 REQUIRED CONTINUING EDUCATION HOURS

Each licensee shall complete at least six credit hours of continuing education training during each renewal period. Each registrant shall complete at least three credit hours of continuing education training during each renewal period. Credit shall be given only for classes that have been pre-approved by the Board. A licensee or registrant who attends a complete meeting of a regularly scheduled meeting of the Alarm Systems Licensing Board shall receive three credit hours for each meeting that the licensee or registrant attends. Said credit shall be applied retroactively for those that signed the attendance sheet and attended a regularly scheduled Board meeting prior to the adoption of this Rule.

History Note: Authority G.S. 74D-2; 74D-5;

Eff. May 1, 1999.

Amended Eff. June 30, 2002.

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

15A NCAC 02E .0502 WITHDRAWAL PERMITS

(a) Existing ground water withdrawal permits issued in Capacity Use Area No. 1 (15A NCAC 02E .0200) within the Central Coastal Plain Capacity Use Area are reissued under Section .0500 of this Subchapter and are valid until the expiration date specified in each permit. Water use permits are no longer required for withdrawals in Hyde and Tyrrell Counties as of the effective date of this Rule. Permits are not required for surface water use under Section .0500 of this Subchapter in the Central

Coastal Plain Capacity Use Area as delineated in Rule .0501 of this Section.

(b) No person shall withdraw ground water after the effective date of this Rule in excess of 100,000 gallons per day by a well, group of wells operated as a system, or sump for any purpose unless such person shall first obtain a water use permit from the Director. Existing withdrawals of ground water as of the effective date of this Rule and proposed withdrawals previously approved for funding appropriated pursuant to the "Clean Water and Natural Gas Critical Needs Bond Act of 1998" or other local, state or federally funded projects as of the effective date of this Rule shall be allowed to proceed with construction or to continue to operate under interim status until a permit has been issued or denied by the Director, provided that persons withdrawing in excess of 100,000 gallons per day by a well, group of wells operated as a system, or sump comply with the following requirements:

(1) Persons conducting withdrawals in the Capacity Use Area that require a permit shall submit a permit application to the Division of Water Resources within 180 days of the effective date of this Rule.

(2) Persons who have submitted applications shall provide any additional information requested by the Division of Water Resources for processing of the permit application within 30 days of the receipt of that request.

(3) Persons conducting withdrawals in the Capacity Use Area that require a permit shall submit water level and water use data on a form supplied by the Division four times a year, within 30 days of the end of March, June, September, and December until a permit has been issued or denied by the Division of Water Resources.

(c) Ground water withdrawals shall be governed by the following standards:

(1) Adverse impacts of ground water withdrawals shall be avoided or minimized. Adverse impacts include, but are not limited to:

- (A) dewatering of aquifers;
- (B) encroachment of salt water;
- (C) land subsidence or sinkhole development; or
- (D) declines in aquifer water levels that indicate that aggregate water use exceeds the aquifer replenishment rate.

(2) Adverse impacts on other water users from ground water withdrawals shall be corrected or minimized through efficient use of water and development of sustainable water sources.

(3) In determining the importance and necessity of a proposed withdrawal the efficiency of water use and implementation of conservation measures shall be considered.

(d) An application for a water use permit must be submitted on a form approved by the Director to the North Carolina Division of Water Resources. The application shall describe the purpose or purposes for which water shall be used, shall set forth the method and location of withdrawals, shall justify the quantities

needed, and shall document water conservation measures to be used by the applicant to ensure efficient use of water and avoidance of waste. Withdrawal permit applications shall include the following information:

- (1) Location by latitude and longitude of all wells to be used for withdrawal of water.
- (2) Specifications for design and construction of existing and proposed production and monitoring wells including:
 - (A) Well diameter;
 - (B) Total depth of the well;
 - (C) Depths of all open hole or screened intervals that will yield water to the well;
 - (D) Depth of pump intake(s);
 - (E) Size, capacity and type of pump;
 - (F) Depth to top of gravel pack; and
 - (G) Depth measurements shall be within accuracy limits of plus or minus 0.10 feet and referenced to a known land surface elevation.

Exceptions may be made where specific items of information are not critical, as determined by the Director, to manage the ground water resource.

- (3) Withdrawal permit applications for use of ground water from the Cretaceous aquifer system shall include plans to reduce water use from these aquifers as specified in Rule .0503 of this Section. Withdrawal rates from the Cretaceous aquifer system that exceed the approved base rate may be permitted during Phase I of Rule .0503 of this Section if the applicant can demonstrate to the Director's satisfaction a need for the greater amount. Cretaceous aquifer system wells shall be identified using the specifications in Rule .0502(d)(1) and .0502(d)(2) of this Section and the hydrogeological framework.
- (4) Withdrawal permit applications for dewatering of mines, pits or quarries shall include a dewatering or depressurization plan that includes:
 - (A) the current withdrawal rate or estimates of the proposed withdrawal rate;
 - (B) the location, design and specifications of any sumps, drains or other withdrawal sources including wells and trenches;
 - (C) the lateral extent and depth of the zone(s) to be dewatered or depressurized;
 - (D) a monitoring plan that provides data to delineate the nature and extent of dewatering or depressurization;
 - (E) certification of all engineering plans and hydrogeological analyses prepared to meet these requirements consistent with professional licensing

board statutes and rules governing such activities.

Exceptions may be made where specific items of information are not critical, as determined by the Director, to manage the ground water resource.

- (5) Conservation Measures. The applicant shall provide information on existing conservation measures and conservation measures to be implemented during the permit period as follows:

- (A) Public water supply systems shall develop and implement a feasible water conservation plan incorporating, at a minimum, the following components. Each component shall be described, including a timetable for implementing each component that does not already exist.
 - (i) Adoption of a water conservation-based rate structure, such as: flat rates, increasing block rates, seasonal rates, or quantity-based surcharges.
 - (ii) Implementation of a water loss reduction program if unaccounted for water is greater than 15 percent of the total amount produced, as documented annually using a detailed water audit. Water loss reduction programs shall consist of annual water audits, in-field leak detection, and leak repair.
 - (iii) Adoption of a water conservation ordinance for irrigation, including such measures as: time-of-day and day-of-week restrictions on lawn and ornamental irrigation, automatic irrigation system shut-off devices or other appropriate measures.
 - (iv) Implementation of a retrofit program that makes available indoor water conservation devices to customers (such as showerheads, toilet flappers, and faucet aerators).
 - (v) Implementation of a public education program (such as water bill inserts, school and civic presentations, water treatment plant tours, public

(o) A permitted water user may sell or transfer to other users a portion of his permitted withdrawal. To carry out such a transfer, the original permittee must request a permit modification to reduce his permitted withdrawal and the proposed recipient of the transfer must apply for a new or amended withdrawal permit under Section .0500 of this Subchapter.

(p) Where an applicant or a permit holder can demonstrate that compliance with water withdrawal limits established under Section .0500 of this Subchapter is not possible because of construction schedules, requirements of other laws, or other reasons beyond the control of the applicant or permit holder, and where the applicant or permit holder has made good faith efforts to conserve water and to plan the development of other water sources, the Director may issue a temporary permit with an alternative schedule to attain compliance with provisions of Section .0500 of this Subchapter, as authorized in G.S. 143-215.15(c)(ii).

History Note: Authority G.S. 143-215.14; 143-215.15; 143-215.16; Eff. August 1, 2002.

15A NCAC 03M .0506 SNAPPER-GROUPER

(a) The Fisheries Director may, by proclamation, impose any or all of the following restrictions in the fisheries for species of the snapper-grouper complex and black sea bass in order to comply with the management requirements incorporated in the Fishery Management Plans for Snapper-Grouper and Sea Bass developed by the South Atlantic Fishery Management Council or Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission:

- (1) Specify size;
- (2) Specify seasons;
- (3) Specify areas;
- (4) Specify quantity;
- (5) Specify means/methods; and
- (6) Require submission of statistical and biological data. The species of the snapper-grouper complex listed in the South Atlantic Fishery Management Council Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region are hereby incorporated by reference and copies are available via the Federal Register posted on the Internet at www.access.gpo.gov and at the Division of Marine Fisheries, P.O. Box 769, Morehead City, North Carolina 28557 at no cost.

(b) Black sea bass:

- (1) It is unlawful to possess black sea bass less than ten inches total length;
- (2) It is unlawful to take or possess more than 20 black sea bass per person per day south of Cape Hatteras without a valid Federal Commercial Snapper-Grouper permit.

(c) Gag grouper:

- (1) It is unlawful to possess gag grouper (gray grouper) less than 24 inches total length;
- (2) It is unlawful to possess more than two gag grouper (gray grouper) per person per day

without a valid Federal Commercial Snapper-Grouper Permit;

- (3) It is unlawful to possess more than two gag grouper (gray grouper) per person per day during the months of March and April;
- (4) It is unlawful to sell or purchase gag grouper (gray grouper) taken from waters under the jurisdiction of North Carolina or the South Atlantic Fishery Management Council during the months of March and April.

(d) Black grouper:

- (1) It is unlawful to possess black grouper less than 24 inches total length;
- (2) It is unlawful to possess more than two black grouper per person per day without a valid Federal Commercial Snapper-Grouper Permit;
- (3) It is unlawful to take or possess more than two black grouper per person per day during the months of March and April;
- (4) It is unlawful to sell or purchase black grouper taken from waters under the jurisdiction of North Carolina or the South Atlantic Fishery Management Council during the months of March and April.

(e) It is unlawful to possess red grouper less than 20 inches total length.

(f) It is unlawful to possess yellowfin grouper (fireback grouper) less than 20 inches total length.

(g) It is unlawful to possess scamp less than 20 inches total length.

(h) It is unlawful to possess yellowmouth grouper less than 20 inches total length.

(i) Speckled hind (kitty mitchell) and warsaw grouper:

- (1) It is unlawful to sell or purchase speckled hind or warsaw grouper;
- (2) It is unlawful to possess more than one speckled hind or one warsaw grouper per vessel per trip.

(j) Greater amberjack:

- (1) For recreational purposes:
 - (A) It is unlawful to possess greater amberjack less than 28 inches fork length;
 - (B) It is unlawful to possess more than one greater amberjack per person per day.
- (2) It is unlawful to sell or purchase greater amberjack less than 36 inches fork length.
- (3) It is unlawful to possess more than one greater amberjack per person per day without a valid Federal Commercial Snapper-Grouper Permit.
- (4) It is unlawful to possess more than one greater amberjack per person per day during the month of April even with a valid Federal Commercial Snapper-Grouper Permit.
- (5) It is unlawful to sell or purchase greater amberjack during any closed season.

(k) Red Snapper:

- (1) It is unlawful to possess red snapper less than 20 inches total length;

- (2) It is unlawful to possess more than two red snapper per person per day without a valid Federal Commercial Snapper-Grouper permit.
- (l) Vermilion Snapper:
 - (1) For recreational purposes:
 - (A) It is unlawful to possess vermilion snapper (beeliner) less than 11 inches total length;
 - (B) It is unlawful to possess more than 10 vermilion snapper per person per day.
 - (2) It is unlawful to possess or sell vermilion snapper (beeliner) less than 12 inches total length with a valid Federal Commercial Snapper-Grouper permit.
- (m) It is unlawful to possess silk snapper (yelloweye snapper) less than 12 inches total length.
- (n) It is unlawful to possess blackfin snapper (hambone snapper) less than 12 inches total length.
- (o) Red porgy (*Pagrus pagrus*):
 - (1) It is unlawful to possess red porgy less than 14 inches total length;
 - (2) It is unlawful to possess more than one red porgy per person per day without a valid Federal Commercial Snapper-Grouper Permit;
 - (3) From January 1 through April 30, it is unlawful, even with a valid Federal Commercial Snapper-Grouper Permit, to:
 - (A) possess more than one red porgy per person per day; or
 - (B) sell or offer for sale red porgy.
 - (4) It is unlawful to land more than 50 pounds of red porgy from May 1 through December 31 in a commercial fishing operation.
- (p) It is unlawful for persons in possession of a valid National Marine Fisheries Service Snapper-Grouper Permit for Charter Vessels to exceed the creel restrictions established in Paragraphs (b),(j), (o), and (p) of this Rule when fishing with more than three persons (including the captain and mate) on board.
- (q) In the Atlantic Ocean, it is unlawful for an individual fishing under a Recreational Commercial Gear License with seines, shrimp trawls, pots, trotlines or gill nets to take any species of the Snapper-Grouper complex.

History Note: Authority G.S. 113-134; 113-182; 113-221; 143B-289.52;
Eff. January 1, 1991;
Amended Eff. April 1, 1997; March 1, 1996; September 1, 1991;
Temporary Amendment Eff. December 23, 1996;
Amended Eff. August 1, 1998; April 1, 1997;
Temporary Amendment Eff. August 29, 2000; January 1, 2000;
May 24, 1999;
Amended Eff. August 1, 2002.

15A NCAC 10B .0208 QUAIL

- (a) The open season for quail shall be the Saturday before Thanksgiving to the last day of February.
- (b) The daily bag Limit shall be six per day and the possession limit shall be 12. There shall be no season limit.

History Note: Authority G.S. 113-134; 113-291.2;
Eff. February 1, 1976;

Amended Eff. July 1, 1996; July 1, 1987; July 1, 1986; July 1, 1985; July 1, 1984;
Temporary Amendment Eff. July 1, 2001;
Amended Eff. July 1, 2002.

15A NCAC 10B .0209 WILD TURKEY (BEARDED TURKEYS ONLY)

- (a) Open Season for bearded wild turkey shall be from the second Saturday in April to Saturday of the fourth week thereafter on bearded turkeys in the following counties: Alamance, Alexander, Alleghany, Anson, Ashe, Avery, **Bladen, Brunswick, Buncombe, Burke, Caldwell, Caswell, Catawba, **Chatham, Cherokee, Chowan, Clay, Cleveland, Craven, Davie, Duplin, **Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, **Granville, Halifax, Harnett, Haywood, Henderson, Hertford, Iredell, Jackson, Jones, Lee, Lenoir, Lincoln, Macon, Madison, **Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Northampton, Onslow, **Orange, Person, Polk, **Richmond, Rockingham, Rowan, Rutherford, Sampson, **Scotland, Stokes, Surry, Swain, Transylvania, Vance, Wake, Washington, Warren, Watauga, Wilkes, Yadkin, Yancey and in the following portions of counties:

- Beaufort: That part south of the Tar/Pamlico River.
- **Bertie: All of the county except that part bounded on the west by NC 11, on the south by NC 308, on the east by NC 45, and on the north by NC 42 and the Hertford County line.
- Cabarrus: That part south of I-85, east of US 601 Business, and north of NC 49.
- Camden: That part west of US 17.
- Carteret: That part west of US 70 and north of NC 24.
- Columbus: All of the county except that part east of NC 701 and west of SR 1005.
- Cumberland: That part west of NC 53 or I-95.
- Currity: That part north of US 158 and west of the Intracoastal Waterway.
- Davidson: That part south of I-85.
- Guilford: That part north of I-40.
- Hoke: That part south and west of NC 211 and that part known as Fort Bragg.
- Hyde: Starting at the Tyrrell County line, that part west of a line formed by NC 94, US 264 West, SR1124 to Judges Quarter then Quarter Canal to Juniper Bay.
- Johnston: That part east of I-95.
- Nash: All of the county except that part east of NC 581 and south of US 64.
- New Hanover: Starting at the Brunswick County line, that part north and west of a line formed by NC-133 and SR 1002.
- Pamlico: That part west of NC 306.
- **Pender: All of the county except that part west of I-40, north of NC 53, and east of US 421.
- Perquimans: All of the county except that part south of US 17 and east of the Perquimans River.
- Randolph: That part west of US 220.
- Robeson: That part east of I-95 and north of US 74.
- Stanly: That part east of a line formed by US 52 from the Cabarrus County line to NC 138 in Albemarle, NC 138 from Albemarle to NC 742 in Oakboro, and NC 742 from Oakboro to the Union County line.

Union: That part south of US 74.

Wayne: That part south of US 70.

**The Sandhills Game Land in Richmond, Scotland, and Moore counties, the Bladen Lakes State Forest Game Lands in Bladen County, the Northeast Cape Fear Wetlands Game Lands in Pender County, the Jordan Game Land in Chatham, Durham, Orange, and Wake counties, the Butner-Falls of the Neuse Game Land in Durham, Granville, and Wake counties, the Roanoke River Wetlands in Bertie, Halifax, and Martin counties, and the Shearon-Harris Game Land in Chatham and Wake counties are closed to turkey hunting except by holders of special permits authorizing turkey hunting as provided in G.S. 113-264(d).

- (b) Bag Limits shall be:
 - (1) daily, one;
 - (2) possession, two; and
 - (3) season, two.
- (c) Dogs Prohibited. It is unlawful to use dogs for hunting turkeys.
- (d) Kill Reports. The kill shall be validated at the site of kill and the kill reported as provided by 15A NCAC 10B .0113.

History Note: Authority G.S. 113-134; 113-270.3; 113-276.1; 113-291.2; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; July 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Amended Eff. July 1, 2002.

15A NCAC 10C .0205 PUBLIC MOUNTAIN TROUT WATERS

(a) Designation of Public Mountain Trout Waters. The waters listed herein or in 15A NCAC 10D .0104 are designated as Public Mountain Trout Waters and further classified as Wild Trout Waters or Hatchery Supported Waters. For specific classifications, see Subparagraphs (1) through (6) of this Paragraph. These waters are posted and lists thereof are filed with the clerks of superior court of the counties in which they are located:

- (1) Hatchery Supported Trout Waters. The listed waters in the counties in Subparagraphs (1)(A)-(Y) are classified as Hatchery Supported Public Mountain Trout Waters. Where specific watercourses or impoundments are listed, indentation indicates that the watercourse or impoundment listed is tributary to the next preceding watercourse or impoundment listed and not so indented. This classification applies to the entire watercourse or impoundment listed except as otherwise indicated in parentheses following the listing. Other clarifying information may also be included parenthetically. The tributaries of listed watercourses or impoundments are not included in the classification unless

specifically set out therein. Otherwise, Wild Trout regulations apply to the tributaries.

- (A) Alleghany County:
 - New River (not trout water)
 - Little River (Whitehead to McCann Dam)
 - Crab Creek
 - Brush Creek (except where posted against trespass)
 - Big Pine Creek
 - Laurel Branch
 - Big Glade Creek
 - Bledsoe Creek
 - Pine Swamp Creek
 - South Fork New River (not trout water)
 - Prather Creek
 - Cranberry Creek
 - Piney Fork
 - Meadow Fork
 - Yadkin River (not trout water)
 - Roaring River (not trout water)
 - East Prong Roaring River (that portion on Stone Mountain State Park)
 - Delayed Harvest Waters regulations apply. See Subparagraph (a)(5) of this Rule.
- (B) Ashe County:
 - New River (not trout waters)
 - North Fork New River (Watauga Co. line to Sharp Dam)
 - Helton Creek (Virginia State line to New River) [Delayed Harvest rules apply. See Subparagraph (a)(5) of this Rule.]
 - Big Horse Creek (Mud Creek at SR 1363 to Tuckerdale)
 - Buffalo Creek (headwaters to junction of NC 194-88 and SR 1131)
 - Big Laurel Creek
 - Three Top Creek (portion not on game lands)
 - Hoskins Fork (Watauga County line to North Fork New River)
 - South Fork New River (not trout waters)
 - Cranberry Creek (Alleghany County line

APPROVED RULES

- to South Fork New River)
Nathans Creek
Peak Creek (headwaters to Trout Lake, except Blue Ridge Parkway waters)
Trout Lake (Delayed harvest regulations apply. See Subparagraph (a)(5) of this Rule.)
Roan Creek
North Beaver Creek
Pine Swamp Creek (all forks)
Old Fields Creek
Mill Creek (except where posted against trespass)
- (C) Avery County:
Nolichucky River (not trout waters)
North Toe River (headwaters to Mitchell County line, except where posted against trespass)
Squirrel Creek
Elk River (SR 1306 crossing to Tennessee State line, including portions of tributaries on game lands)
Catawba River (not trout water)
Johns River (not trout water)
Wilson Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule]
Lost Cove Creek [not Hatchery Supported trout water, see Subparagraph (a)(4) of this Rule]
Buck Timber Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule]
Cary Flat Branch [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule]
Boyde Coffey Lake
Archie Coffey Lake
Linville River [Land Harbor line (below dam) to Blue Ridge Parkway boundary line,
- except where posted against trespass]
Milltimber Creek
- (D) Buncombe County:
French Broad River (not trout water)
Big Ivy Creek (Ivy River) (Dillingham Creek to US 19-23 bridge)
Dillingham Creek (Corner Rock Creek to Big Ivy Creek)
Stony Creek
Mineral Creek (including portions of tributaries on game lands)
Corner Rock Creek (including tributaries, except Walker Branch)
Reems Creek (Sugar Camp Fork to US 19-23 bridge, except where posted against trespass)
Swannanoa River (SR 2702 bridge near Ridgecrest to Sayles Bleachery in Asheville, except where posted against trespass)
Bent Creek (headwaters to N.C. Arboretum boundary line, including portions of tributaries on game lands)
Lake Powhatan
Cane Creek (headwaters to SR 3138 bridge)
- (E) Burke County:
Catawba River (not trout water)
South Fork Catawba River (not trout water)
Henry Fork (lower South Mountains State Park line downstream to SR 1919 at Ivy Creek)
Jacob Fork (Shinny Creek to lower South Mountain State Park boundary) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
Johns River (not trout water)
Parks Creek (portion not on game lands not trout water)
Carroll Creek (game lands portion above SR 1405 including tributaries)

- (F) Linville River (game lands portion below the Blue Ridge Parkway including portions of tributaries on game lands and from first bridge on SR 1223 below Lake James powerhouse to Muddy Creek)
- (F) Caldwell County:
 Catawba River (not trout water)
 Johns River (not trout water)
 Wilson Creek (Phillips Branch to Browns Mountain Beach dam, except where posted against trespass)
 Estes Mill Creek (not trout water)
 Thorps Creek (falls to NC 90 bridge)
 Mulberry Creek (portion not on game lands not trout water)
 Boone Fork (not Hatchery Supported trout water. See Subparagraph (a)(2) of this Rule)
 Boone Fork Pond
- (G) Cherokee County:
 Hiwassee River (not trout water)
 Shuler Creek (headwaters to Tennessee line, except where posted against trespass including portions of tributaries on game lands)
 North Shoal Creek (Crane Creek) (headwaters to SR 1325, including portions of tributaries on game lands)
 Persimmon Creek
 Davis Creek (confluence of Bald and Dockery creeks to Hanging Dog Creek)
 Beaver Dam Creek (headwaters to SR 1326 bridge, including portions of tributaries on game lands)
 Valley River
 Hyatt Creek (including portions of tributaries on game lands)
 Webb Creek (including portions of tributaries on game lands)
 Junaluska Creek (Ashturn Creek to Valley River, including portions of tributaries on game lands)
- (H) Clay County:
 Hiwassee River (not trout water)
 Fires Creek (first bridge above the lower game land line on US Forest Service road 442 to SR 1300)
 Tusquitee Creek (headwaters to lower SR 1300 bridge, including portions of Bluff Branch on game lands)
 Tuni Creek (including portions of tributaries on game lands)
 Chatuge Lake (not trout water)
 Shooting Creek (SR 1349 bridge to US 64 bridge at SR 1338)
 Hothouse Branch (including portions of tributaries on gamelands)
 Vineyard Creek (including portions of tributaries on game lands)
- (I) Graham County:
 Little Tennessee River (not trout water)
 Calderwood Reservoir (Cheoah Dam to Tennessee State line)
 Cheoah River (not trout water)
 Yellow Creek
 Santeelah Reservoir (not trout water)
 West
 Buffalo Creek
 Huffman
 Creek (Little Buffalo Creek)
 Santeelah Creek (Johns Branch to mouth including portions of tributaries within this section located on game lands, excluding Johns Branch)
 (Big) Snowbird
 Creek (old railroad junction to mouth, including portions of tributaries on game lands)
 Mountain Creek (game lands boundary to SR 1138 bridge)
 Long
 Creek (portion not on game lands)

APPROVED RULES

- Tulula Creek (headwaters to lower bridge on SR 1275)
 - Franks Creek
 - Cheoah Reservoir
 - Fontana Reservoir (not trout water)
 - Stecoah Creek
 - Sawyer Creek
 - Panther Creek (including portions of tributaries on game lands)
- (J) Haywood County:
 - Pigeon River (not trout water)
 - Hurricane Creek (including portions of tributaries on game lands)
 - Cold Springs Creek (including portions of tributaries on game lands)
 - Jonathans Creek - lower (concrete bridge in Dellwood to Pigeon River)
 - Jonathans Creek - upper [SR 1302 bridge (west) to SR 1307 bridge]
 - Hemphill Creek
 - West Fork Pigeon River (triple arch bridge on highway NC 215 to Queens Creek, including portions of tributaries within this section located on game lands, except Middle Prong)
 - Richland Creek (Russ Avenue bridge to US 19A-23 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (K) Henderson County:
 - (Rocky) Broad River (one-half mile north of Bat Cave to Rutherford County line)
 - Green River - upper (mouth of Bobs Creek to mouth of Rock Creek)
 - Green River - lower (Lake Summit Dam to I-26 bridge)
 - Camp Creek (SR 1919 to Polk County line)
 - (Big) Hungry River
 - Little Hungry River
 - French Broad River (not trout water)
 - Mills River (not trout water)
 - North Fork Mills River (game lands portion below the Hendersonville watershed dam). Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (L) Jackson County:
 - Tuckasegee River (confluence with West Fork Tuckasegee River to SR 1392 bridge at Wilmot) Delayed Harvest Regulations apply to that portion between NC 107 bridge at Love Field and the Dillsboro dam. See Subparagraph (a)(5) of this Rule.
 - Scott Creek (entire stream, except where posted against trespass)
 - Dark Ridge Creek (Jones Creek to Scotts Creek)
 - Buff Creek (SR 1457 bridge below Bill Johnson's place to Scott Creek)
 - Savannah Creek (Headwaters to Bradley's Packing House on NC 116)
 - Greens Creek (Greens Creek Baptist Church on SR 1730 to Savannah Creek)
 - Cullowhee Creek (Tilley Creek to Tuckasegee River)
 - Bear Creek Lake
 - Wolf Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule]
 - Wolf Creek Lake
 - Balsam Lake
 - Tanasee Creek [not Hatchery Supported trout water, see Subparagraph (a)(2) of this Rule]
 - Tanasee Creek Lake
 - West Fork Tuckasegee River (Shoal Creek to existing water level of Little Glenville Lake)
 - Shoal Creek (Glenville Reservoir pipeline to mouth)
- (M) Macon County:
 - Little Tennessee River (not trout water)
 - Nantahala River (Nantahala Dam to Swain County line) Delayed Harvest Regulations apply to the portion from Whiteoak Creek to the Nantahala Power and Light powerhouse discharge canal. See Subparagraph (a)(5) of this Rule.
 - Queens Creek Lake
 - Burningtown Creek (including portions of tributaries on game lands)

Cullasaja River (Sequoah Dam to US 64 bridge near junction of SR 1672, including portions of tributaries on game lands, excluding those portions of Big Buck Creek and Turtle Pond Creek on game lands. Wild trout regulations apply. See Subparagraphs (a)(2) and (a)(6) of this Rule.)

Ellijay Creek (except where posted against trespass, including portions of tributaries on game lands)

Skitty Creek

Cliffside Lake

Cartoogechaye Creek (US 64 bridge to Little Tennessee River)

Tessentee Creek (Nichols Branch to Little Tennessee River, except where posted against trespassing)

Savannah River (not trout water)

Big Creek (base of falls to Georgia State line, including portions of tributaries within this Section located on game lands)

(N) Madison County:

French Broad River (not trout water)

Shut-In Creek (including portions of tributaries on game lands)

Spring Creek (junction of NC 209 and NC 63 to lower US Forest Service boundary line, including portions of tributaries on game lands)

Meadow Fork Creek

Roaring Fork (including portions of tributaries on game lands)

Little Creek

Max Patch Pond

Mill Ridge Pond

Big Laurel Creek (Mars Hill Watershed boundary to Rice's Mill Dam)

Big Laurel Creek (NC 208 bridge to US 25-70 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.

Shelton Laurel Creek (confluence of Big Creek and Mill Creek to NC 208 bridge at Belva) Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.

Big Creek (headwaters to lower game land boundary, including tributaries)

Mill Creek (upper game lands boundary to confluence with Big Creek)

Puncheon Fork (Hampton Creek to Big Laurel Creek)

Big Pine Creek (SR 1151 bridge to French Broad River)

(O) McDowell County:

Catawba River (portion not on game lands, not trout water)

Buck Creek (portion not on game lands, not trout water)

Little Buck Creek (game land portion including portions of tributaries on game lands)

Curtis Creek game lands portion downstream of US Forest Service boundary at Deep Branch. Delayed Harvest regulations apply. See Subparagraph (a)(5) of this Rule.

North Fork Catawba River (headwaters to SR 1569 bridge)

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

Mill Creek (upper railroad bridge to U.S. 70 Bridge, except where posted against trespass)

(P) Mitchell County:

Nolichucky River (not trout water)

Big Rock Creek (headwaters to NC 226 bridge at SR 1307 intersection)

Little Rock Creek (Green Creek Bridge to Big Rock Creek, except

- where posted against trespass)
- Cane Creek (SR 1219 to NC 226 bridge)
- Cane Creek (NC 226 bridge to NC 80 bridge) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- Grassy Creek (East Fork Grassy Creek to mouth)
- East Fork Grassy Creek
- North Toe River (Avery County line to SR 1121 bridge)
- (Q) Polk County:
- Broad River (not trout water)
- North Pacolet River (Pacolet Falls to NC 108 bridge)
- Fork Creek (Fork Creek Church on SR 1100 to North Pacolet River)
- Big Fall Creek (portion above and below water supply reservoir)
- Green River (Fishtop Falls Access Area to mouth of Brights Creek) Delayed Harvest regulations apply to the portion from Fishtop Falls Access Area to Cove Creek. See Subparagraph (a)(5) of this Rule.
- Little Cove Creek (including portions of tributaries on game lands)
- Cove Creek (including portions of tributaries on game lands)
- Camp Creek [Henderson County line (top of falls) to Green River]
- (R) Rutherford County:
- (Rocky) Broad River (Henderson County line to US 64/74 bridge, except where posted against trespass)
- (S) Stokes County:
- Dan River (SR 1416 bridge downstream to a point 200 yards below the end of SR 1421)
- (T) Surry County:
- Yadkin River (not trout water)
- Ararat River (SR 1727 bridge downstream to the NC 103 bridge)
- Stewarts Creek (not trout water)
- Pauls Creek (Virginia State line to 0.3 mile below SR 1625 bridge - lower Caudle property line)
- Fisher River (Cooper Creek) (Virginia State line to NC 89 bridge)
- Little Fisher River (Virginia State line to NC 89 bridge)
- Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam) Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- (U) Swain County:
- Little Tennessee River (not trout water)
- Calderwood Reservoir (Cheoah Dam to Tennessee State line)
- Cheoah Reservoir
- Fontana Reservoir (not trout water)
- Alarka Creek (game lands boundary to Fontana Reservoir)
- Nantahala River (Macon County line to existing Fontana Reservoir water level)
- Tuckasegee River (not trout water)
- Deep Creek (Great Smoky Mountains National Park boundary line to Tuckasegee River)
- Connelly Creek (including portions of tributaries on game lands)
- (V) Transylvania County:
- French Broad River (junction of west and north forks to US 276 bridge)
- Davidson River (Avery Creek to Ecusta intake)
- East Fork French Broad River (Glady Fork to French Broad River)
- Middle Fork French Broad River
- West Fork French Broad River (SR 1312 and SR 1309 intersection to junction of west and north forks, including portions of

APPROVED RULES

- (W) tributaries within this section located on game lands) Stone Mountain Creek (Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.)
- Watauga County: Middle Prong Roaring River (headwaters to second bridge on SR 1736)
- New River (not trout waters) Bell Branch Pond
- North Fork New River (from confluence with Maine and Mine branches to Ashe County line) Boundary Line Pond
- Maine Branch (headwaters to North Fork New River) West Prong Roaring River (not trout waters)
- South New Fork River (not trout water) Pike Creek
- Meat Camp Creek Pike Creek Pond
- Norris Fork Creek Reddies River (not trout water)
- Howards Creek (downstream from lower falls) Middle Fork Reddies River (Clear Prong) (headwaters to bridge on SR 1580)
- Middle Fork New River (Lake Chetola Dam to South Fork New River)
- Yadkin River (not trout water) South Fork Reddies River (headwaters to confluence with Middle Fork Reddies River)
- Stony Fork (headwaters to Wilkes County line) North Fork Reddies River (Vannoy Creek) (headwaters to Union School bridge on SR 1559)
- Elk Creek (headwaters to gravel pit on SR 1508, except where posted against trespass) Darnell Ceek (North Prong Reddies River) (downstream ford on SR 1569 to confluence with North Fork Reddies River)
- Watauga River (SR 1557 bridge to NC 105 bridge). Delayed Harvest Regulations apply. See Subparagraph (a)(5) of this Rule.
- Beech Creek
- Buckeye Creek Reservoir
- Coffee Lake
- Beaverdam Creek (SR 1209 bridge at Bethel to an unnamed tributary adjacent to the intersection of SR 1201 and SR 1203)
- Laurel Creek
- Cove Creek (SR 1233 bridge at Zionville to SR 1233 bridge at Amantha)
- Dutch Creek (second bridge on SR 1134 to mouth)
- Boone Fork (headwaters to SR 1562)
- (X) Wilkes County: Lewis Fork Creek (not trout water)
- Yadkin River (not trout water) South Prong Lewis Fork (headwaters to Lewis Fork Baptist Church)
- Roaring River (not trout water) Fall Creek (except portions posted against trespass)
- East Prong Roaring River (Bullhead Creek to Brewer's Mill on SR 1943) (Delayed harvest regulations apply to portion on Stone Mountain State Park) See Subparagraph (a)(5) of this Rule.
- (Y) Yancey County: Nolichucky River (not trout water)
- Cane River [Bee Branch (SR 1110) to Bowlens Creek]
- Bald Mountain Creek (except portions posted against trespass)
- Indian Creek (not trout water)

APPROVED RULES

- Price Creek
(junction of SR 1120 and SR 1121 to Indian Creek)
North Toe River (not trout water)
South Toe River (Clear Creek to lower boundary line of Yancey County recreation park except where posted against trespass)
- (2) Wild Trout Waters. All waters designated as Public Mountain Trout Waters on the game lands listed in Subparagraph (b)(2) of 15A NCAC 10D .0104, are classified as Wild Trout Waters unless specifically classified otherwise in Subparagraph (a)(1) of this Rule. The trout waters listed in this Subparagraph are also classified as Wild Trout Waters.
- (A) Alleghany County:
Big Sandy Creek (portion on Stone Mountain State Park)
Ramey Creek (entire stream)
Stone Mountain Creek (that portion on Stone Mountain State Park)
- (B) Ashe County:
Big Horse Creek (Virginia State Line to Mud Creek at SR 1363) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Land) Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.
- (C) Avery County:
Birchfield Creek (entire stream)
Cow Camp Creek (entire stream)
Cranberry Creek (entire stream)
Gragg Prong (entire stream)
Horse Creek (entire stream)
Jones Creek (entire stream)
Kentucky Creek (entire stream)
North Harper Creek (entire stream)
Plumtree Creek (entire stream)
Roaring Creek (entire stream)
Rockhouse Creek (entire stream)
South Harper Creek (entire stream)
Webb Prong (entire stream)
Wilson Creek (Catch and Release/Artificial Lures Only Regulations apply. See Subparagraph (a)(3) of this Rule.)
- (D) Buncombe County:
Carter Creek (game land portion) (Catch and Release/Artificial Lures only regulations apply. See Subparagraph (a)(3) of this Rule.)
- (E) Burke County:
All waters located on South Mountain State Park, except the main stream of Jacob Fork
Between the mouth of Shinny Creek and the lower park boundary where delayed harvest regulations, and Henry Fork and tributaries where catch and release/artificial lures only regulations apply. See Subparagraphs (a)(3) and (a)(5) of this Rule.
Nettle Branch (game land portion)
- (F) Caldwell County:
Buffalo Creek (Watauga County line to Long Ridge Branch)
Joes Creek (Watauga County line to first falls upstream of the end of SR 1574)
Rockhouse Creek (entire stream)
- (G) Cherokee County:
Bald Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters regulations apply. See Subparagraph (a)(6) of this Rule.]
Dockery Creek (game land portions, including tributaries) [Wild Trout/Natural Bait Waters regulations apply. See Subparagraph (a)(6) of this Rule.]
- (H) Cleveland County: Brier Creek and tributaries (game lands portions)
- (I) Graham County:
South Fork Squally Creek (entire stream)
Squally Creek (entire stream)
- (J) Henderson County:
Green River (I-26 bridge to Henderson/Polk County line)
- (K) Jackson County:
Gage Creek (entire stream)
North Fork Scott Creek (entire stream)
Tanasee Creek (entire stream)
Whitewater River (downstream from Silver Run Creek to South Carolina State line)
Wolf Creek (entire stream, except Balsam Lake and Wolf Creek Lake)
- (L) Madison County:
Spillcorn Creek (entire stream) [Wild Trout/Natural Bait Waters regulations apply. See Subparagraph (6) of Paragraph (a) of this Rule.]
- (M) Mitchell County:

- Green Creek (headwaters to Green Creek Bridge, except where posted against trespass)
 Little Rock Creek (headwaters to Green Creek Bridge, including all tributaries, except where posted against trespass)
 Wiles Creek (game land boundary to mouth)
- (N) Polk County
 Green River (Henderson County line to Fishtop Falls Access Area)
 Pulliam (Fulloms) Creek and tributaries (game lands portions)
- (O) Rutherford County:
 North Fork (First Broad River) and tributaries (game lands portion)
 Brier Creek and tributaries (game lands portion)
- (P) Transylvania County:
 Whitewater River (downstream from Silver Run Creek to South Carolina State line)
- (Q) Watauga County:
 Dutch Creek (headwaters to second bridge on SR 1134)
 Howards Creek (headwaters to lower falls)
 Watauga River (Avery County line to steel bridge at Riverside Farm Road)
- (R) Wilkes County:
 Big Sandy Creek (portion on Stone Mountain State Park)
 Garden Creek (portion on Stone Mountain State Park)
 Harris Creek and tributaries (portions on Stone Mountain State Park) [Catch and Release
 Artificial Lures Only regulations apply. See Subparagraph (a)(4) of this Rule.]
 Widow Creek (portion on Stone Mountain State Park)
- (S) Yancey County:
 Lickskillet Creek (entire stream)
 Middle Creek (game land boundary to mouth)
 Rock Creek (game land boundary to mouth)
 South Toe River (game land boundary downstream to Clear Creek)
- (3) Catch and Release/Artificial Lures Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Artificial Lures Only waters. Only artificial lures having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Ashe County:
 Big Horse Creek (Virginia State line to Mud Creek at SR 1363 excluding tributaries)
 Unnamed tributary of Three Top Creek (portion located on Three Top Mountain Game Lands)
- (B) Avery County:
 Wilson Creek (game land portion)
- (C) Buncombe County:
 Carter Creek (game land portion)
- (D) Burke County:
 Henry Fork (portion on South Mountains State Park)
- (E) Jackson County:
 Flat Creek
 Tuckasegee River (upstream of Clarke property)
- (F) McDowell County:
 Newberry Creek (game land portion)
- (G) Wilkes County:
 Harris Creek (portion on Stone Mountain State Park)
- (H) Yancey County:
 Lower Creek
 Upper Creek
- (4) Catch and Release/Artificial Flies Only Trout Waters. Those portions of designated wild trout waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Catch and Release/Fly Fishing Only waters. Only artificial flies having one single hook may be used. No fish may be harvested or be in possession while fishing these streams:
- (A) Avery County:
 Lost Cove Creek (game land portion, excluding Gragg Prong and Rockhouse Creek)
- (B) Transylvania County:
 Davidson River (headwaters to Avery Creek, excluding Avery Creek, Looking Glass Creek and Grogan Creek)
- (C) Yancey County:
 South Toe River (portion from the concrete bridge above Black Mountain Campgroup downstream to game land boundary, excluding Camp Creek and Big Lost Cove Creek)
- (5) Delayed Harvest Trout Waters. Those portions of designated Hatchery Supported Trout Waters as listed in this Subparagraph, excluding tributaries except as noted, are further classified as Delayed Harvest Waters. Between 1 October and one-half hour after sunset on the Friday before the first Saturday

of the following June, inclusive, it is unlawful to possess natural bait and only artificial lures with one single hook may be used. No fish may be harvested or be in possession while fishing these streams during this time. These waters are closed to fishing between one-half hour after sunset on the Friday before the first Saturday in June and 6:00 a.m. on the first Saturday in June. At 6:00 a.m. on the first Saturday in June these streams open for fishing under Hatchery Supported Waters rules:

- (A) Ashe County:
Trout Lake
Helton Creek (Virginia state line to New River)
- (B) Burke County:
Jacob Fork (Shinny Creek to lower South Mountains State Park boundary)
- (C) Haywood County:
Richland Creek (Russ Avenue bridge to US 19A-23 bridge)
- (D) Henderson County:
North Fork Mills River (game land portion below the Hendersonville watershed dam)
- (E) Jackson County:
Tuckasegee River (NC 107 bridge at Love Field Downstream to the Dillsboro dam)
- (F) Macon County:
Nantahala River (portion from Whiteoak Creek to the Nantahala Power and Light power house discharge canal)
- (G) Madison County:
Big Laurel Creek (NC 208 bridge to the US 25-70 bridge)
Shelton Laurel Creek (NC 208 bridge at Belva to the confluence with Big Laurel Creek)
- (H) McDowell County:
Curtis Creek (game lands portion downstream of U.S. Forest Service boundary at Deep Branch)
- (I) Mitchell County:
Cane Creek (NC 226 bridge to NC 80 bridge)
- (J) Polk County:
Green River (Fishtop Falls Access Area to confluence with Cove Creek)
- (K) Surry County:
Mitchell River (0.6 mile upstream of the end of SR 1333 to the SR 1330 bridge below Kapps Mill Dam)
- (L) Watauga County:
Watauga River (SR 1557 bridge to NC 05 bridge)
- (M) Wilkes County:

East Prong Roaring River (from Bullhead Creek downstream to the Stone Mountain State Park lower boundary)
Stone Mountain Creek (from falls at Allegheny County line to confluence with East Prong Roaring River and Bullhead Creek in Stone Mountain State Park)

(6) Wild Trout/Natural Bait Waters. Those portions of designated Wild Trout Waters as listed in this Subparagraph, including tributaries except as noted, are further classified as Wild Trout/Natural Bait Waters. All artificial lures and natural baits, except live fish, are allowed provided they are fished using only one single hook. The creel limit, size limit, and open season are the same as other Wild Trout Waters [see 15A NCAC 10C .0305(a)].

- (A) Cherokee County:
Bald Creek (game land portions)
Dockery Creek (game land portions)
Tellico River (Fain Ford to Tennessee state line excluding tributaries)
- (B) Clay County:
Buck Creek (game land portion downstream of US 64 bridge)
- (C) Graham County:
Deep Creek
Long Creek (game land portion)
- (D) Jackson County:
Chattooga River (SR 1100 bridge to South Carolina state line)
(lower) Fowler Creek (game land portion)
Scotsman Creek (game land portion)
- (E) Macon County:
Chattooga River (SR 1100 bridge to South Carolina state line)
Jarrett Creek (game land portion)
Kimsey Creek
Overflow Creek (game land portion)
Park Creek
Tellico Creek (game land portion)
Turtle Pond Creek (game land portion)
- (F) Madison County:
Spillcorn Creek (entire stream, excluding tributaries)
- (G) Transylvania County:
North Fork French Broad River (game land portions downstream of SR 1326)
Thompson River (SR 1152 to South Carolina state line, except where posted against trespass, including portions of tributaries within this section located on game lands)

(b) Fishing in Trout Waters

APPROVED RULES

- (1) Hatchery Supported Trout Waters. It is unlawful to take fish of any kind by any manner whatsoever from designated public mountain trout waters during the closed seasons for trout fishing. The seasons, size limits, creel limits and possession limits apply in all waters, whether designated or not, as public mountain trout waters. Except in power reservoirs and city water supply reservoirs so designated, it is unlawful to fish in designated public mountain trout waters with more than one line. Night fishing is not allowed in most hatchery supported trout waters on game lands [see 15A NCAC 10D .0104(b)(1)].
- (2) Wild Trout Waters. Except as otherwise provided in Subparagraphs (a)(3), (a)(4), and (a)(6) of this Rule, the following rules apply to fishing in wild trout waters.
- (A) Open Season. There is a year round open season for the licensed taking of trout.
- (B) Creel Limit. The daily creel limit is four trout.
- (C) Size Limit. The minimum size limit is seven inches.
- (D) Manner of Taking. Only artificial lures having only one single hook may be used. No person shall possess natural bait while fishing wild trout waters except those waters listed in 15A NCAC 10C .0205(a)(6).
- (E) Night Fishing. Fishing on wild trout waters is not allowed between one-half hour after sunset and one-half hour before sunrise.

History Note: Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Amended Eff. July 1, 2002.

15A NCAC 10C .0305 OPEN SEASONS: CREEL AND SIZE LIMITS

(a) Generally. Subject to the exceptions listed in Paragraph (b) of this Rule, the open seasons and creel and size limits are as indicated in the following table:

GAME FISHES	DAILY CREEL LIMITS	MINIMUM SIZE LIMITS	OPEN SEASON
Mountain Trout:			
Wild Trout Waters	4	7 in.	ALL YEAR (exc. 2)
Hatchery Supported Trout Waters and undesignated waters	7 (exec. 2)	None (exec. 2)	All year, except March 1 to 6:00 a.m. on first Saturday in April (exc. 2)
Muskellunge and Tiger Musky	2	30 in.	ALL YEAR
Chain Pickerel (Jack)	None	None	ALL YEAR
Walleye	8 (exc. 9)	None	ALL YEAR
Sauger	8	15 in.	ALL YEAR
Black Bass:			
Largemouth	5	14 in. (excs. 3, 8 & 10)	ALL YEAR (exc. 17)
Smallmouth and Spotted	5	12 in. (excs. 3, 8 & 10)	ALL YEAR
White Bass	25	None	ALL YEAR
Sea Trout (Spotted or Speckled)	10	12 in.	ALL YEAR

APPROVED RULES

Flounder	None	13 in.	ALL YEAR
Red drum (channel bass, red fish, puppy drum)	2	18 in. (exc. 20)	ALL YEAR
Striped Bass and their hybrids (Morone Hybrids)	8 aggregate (excs. 1, 5 & 13)	16 in. (excs. 1, 5, 6 & 11)	ALL YEAR (excs. 5, 13, & 15)
Shad: (American and hickory)	10 aggregate (exc. 18)	None	ALL YEAR (excs. 18 & 19)
Kokanee Salmon	7	None	ALL YEAR
Panfishes	None (excs. 4, 12 & 16)	None (exc. 12)	ALL YEAR (exc. 4)
NONGAME FISHES	None (exc. 14)	None (exc. 14)	ALL YEAR (excs. 6)

(b) Exceptions

- (1) In the Dan River upstream from its confluence with Bannister River to the Brantly Steam Plant Dam, and in John H. Kerr, Gaston, and Roanoke Rapids Reservoirs, and Lake Norman, the creel limit on striped bass and Morone hybrids is four in the aggregate and the minimum size limit is 20 inches.
- (2) In designated public mountain trout waters the season for taking all species of fish is the same as the trout fishing season. There is no closed season on taking trout from Nantahala River and all tributaries (excluding impoundments) upstream from Nantahala Lake, and the impounded waters of power reservoirs and municipally-owned water supply reservoirs open to the public for fishing. In Lake Lure the daily creel limit for trout is five fish and minimum size limit for trout is 15 inches.
- (3) Bass taken from Calderwood Reservoir may be retained without restriction as to size limit.
- (4) On Mattamuskeet Lake, special federal regulations apply.
- (5) In the inland fishing waters of Cape Fear, Neuse, Pee Dee, 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 Lake Mattamuskeet, the daily creel limit for striped bass and their hybrids is three fish in aggregate and the minimum length limit is 18 inches. In the Tar Pamlico River and its tributaries upstream of the Grimesland bridge and in the Neuse River and its tributaries upstream of the NC 55 bridge in Lenoir County, no striped bass or striped bass hybrids between the lengths of 22 inches and 27 inches shall be retained during the period April 1 through May 31.
- (6) The open season for taking and possessing striped bass and their hybrids in the Roanoke

River Striped Bass Management Area is March 1 through April 15 from the joint-coastal fishing waters boundary at Albemarle Sound upstream to the US 258 bridge and is March 15 through April 30 from the US 258 bridge upstream to Roanoke Rapids Lake dam. During the open season the daily creel limit for striped bass and their hybrids is two fish and no fish between 22 inches and 27 inches in length shall be retained.

(7) See 15A NCAC 10C .0407 for open seasons for taking nongame fishes by special devices.

(8) The maximum combined number of black bass of all species that may be retained per day is five fish, no more than two of which may be smaller than the applicable minimum size limit. The minimum size limit for all species of black bass is 14 inches, with no exception in Lake Luke Marion in Moore County, in Reedy Creek Park lakes in Mecklenburg County, in Lake Rim in Cumberland County, in Currituck Sound and tributaries north of Wright Memorial Bridge, in North River and tributaries in Currituck and Camden Counties north of a line between Camden Point and the end of SR 1124, in High Rock Lake downstream of I-85, in Badin Lake, in Falls Lake, in Lake Tillery, in Blewett Falls Lake, in Tuckertown Lake and in the New River and its tributaries in Onslow County. In and west of Madison, Buncombe, Henderson and Polk Counties and in designated public mountain trout waters the minimum size limit is 12 inches. In B. Everett Jordan Reservoir, in Falls of the Neuse Reservoir, east of SR 1004, and in Lake Lure a minimum size limit of 16 inches, with no exception, applies to largemouth bass. In W. Kerr Scott Reservoir there is no minimum size limit for spotted bass. In Lake Lure a minimum size limit of 14

- inches, with no exception, applies to smallmouth bass.
- (9) A minimum size limit of 15 inches applies to walleye taken from Lake James and its tributaries, and the daily creel limit for walleye is four fish in Linville River upstream from the NC 126 bridge above Lake James.
- (10) The minimum size limit for all black bass, with no exception, is 18 inches in the following trophy bass lakes:
 (A) Cane Creek Lake in Union County;
 (B) Lake Thom-A-Lex in Davidson County; and
 (C) Sutton Lake in New Hanover County.
- (11) In all impounded inland waters and their tributaries, except those waters described in Exceptions (1) and (5), the daily creel limit of striped bass and their hybrids may include not more than two fish of smaller size than the minimum size limit.
- (12) In Lake Tillery, Falls Lake, High Rock Lake, Badin Lake, Tuckertown Lake, Lake Hyco, Lake Ramseur, Cane Creek Lake and the Roanoke River downstream of the US 17 bridge in Williamston and its tributaries (including the Cashie, Middle and Eastmost rivers and their tributaries) a daily creel limit of 20 fish and a minimum size limit of 8 inches apply to crappie. In Lake James, Lake Lure and Hiwassee Reservoir, a daily creel limit of 20 fish applies to crappie.
- (13) In designated inland fishing waters of Roanoke Sound, Croatan Sound, Albemarle Sound, Chowan River, Currituck Sound, Alligator River, Scuppernong River, and their tributaries (excluding the Roanoke River and Cashie River and their tributaries), striped bass fishing season, size limits and creel limits shall be the same as those established by duly adopted rules or proclamations of the Marine Fisheries Commission in adjacent joint or coastal fishing waters.
- (14) The daily creel and length limits for channel, white, and blue catfish in designated urban lakes are provided for in 15A NCAC 10C .0401(d).
- (15) 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.
- (16) In the entire Lumber River from the Camp MacKall bridge (SR 1225, at the point where Richmond, Moore, Scotland, and Hoke counties join) to the South Carolina state line and in all public fishing waters east of I-95, except Tar River Reservoir in Nash County, the daily creel limit for sunfish is 30 in aggregate, no more than 12 of which shall be redbreast sunfish.

- (17) In Sutton Lake, no largemouth bass may be retained from December 1 through March 31.
- (18) In the Pee Dee River downstream from the Blewett Falls dam, shad may be taken with special fishing devices without restriction to creel limits as provided for in 15A NCAC 10C .0404(b) during the permitted special fishing device seasons specified in 15A NCAC 10C .0407. American and hickory shad taken under this Subparagraph may be sold as authorized under subsection 10C .0401 of this Rule.
- (19) The season for taking American and hickory shad with dip nets and bow nets is March 1 through April 30, except in Pee Dee River downstream from Blewett Falls dam where the season prescribed in 15A NCAC 10C .0407(4) and 15A NCAC .0407(75) is in effect.
- (20) No red drum greater than 27 inches in length may be retained.

History Note: Filed as a Temporary Amendment Eff. December 1, 1994 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Filed as a Temporary Amendment Eff. May 1, 1991, for a period of 180 days to expire on November 1, 1991; Filed as a Temporary Amendment Eff. May 22, 1990, for a period of 168 days to expire on November 1, 1990; Filed as a Temporary Amendment Eff. May 10, 1990, for a period of 180 days to expire on November 1, 1990; Authority G.S. 113-134; 113-292; 113-304; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; October 1, 1992; Temporary Amendment Eff. November 1, 1998; Amended Eff. April 1, 1999; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Amended Eff. July 1, 2002.

SECTION .0400 – NONGAME FISH

15A NCAC 10C .0401 MANNER OF TAKING NONGAME FISHES: PURCHASE AND SALE IS AMENDED

- (a) Except as permitted by the rules in this Section, it is unlawful to take nongame fishes from the inland fishing waters of North Carolina in any manner other than with hook and line or grabbling. Nongame fishes may be taken by hook and line or grabbling at any time without restriction as to size limits or creel limits, except that no trotlines or set-hooks may be used in the impounded waters located on the Sandhills Game Land or in designated public mountain trout waters. In Lake Waccamaw, trotlines or set-hooks may be used only from October 1 through April 30. The season for taking nongame fishes by other hook and line methods in designated public mountain trout waters shall be the same as the trout fishing season.
- (b) Nongame fishes, except alewife and blueback herring (greater than 6 inches in length) and bowfin, taken by hook and

APPROVED RULES

line, grabbing or by licensed special devices may be sold. Alewife and blueback herring less than 6 inches in length may be sold except in those waters specified in 15A NCAC 10C .0402(d), where their possession is prohibited. Eels less than six inches in length may not be taken from inland waters for any purpose.

(c) Freshwater mussels may only be taken from impounded waters, except mussels shall not be taken in Lake Waccamaw and in University Lake in Orange County..

(d) It is unlawful to use boats powered by gasoline engines on impoundments located on the Barnhill Public Fishing Area.

(e) In the posted Community Fishing Program waters listed below it is unlawful to take channel, white or blue catfish (forked tail catfish) by means other than hook and line; the daily creel limit for forked tail catfish is six fish in aggregate:

- Cedarrock Pond, Alamance County
- Lake Tomahawk, Buncombe County
- Frank Liske Park Pond, Cabarrus County
- Lake Rim, Cumberland County
- C.G. Hill Memorial Park Pond, Forsyth County
- Kernersville Lake, Forsyth County
- Winston Pond, Forsyth County
- Bur-Mil Park Ponds, Guilford County
- Oka T. Hester Pond, Guilford County
- San-Lee Park Ponds, Lee County
- Kinston Neuseway Park Pond, Lenoir County
- Freedom Park Pond, Mecklenburg County
- McAlpine Lake, Mecklenburg County
- Lake Luke Marion, Moore County
- Lake Michael, Orange County
- River Park North Pond, Pitt County
- Big Elkin Creek, Surry County
- Apex Community Lake, Wake County
- Lake Crabtree, Wake County
- Shelley Lake, Wake County
- Simpkins Pond, Wake County
- Lake Toisnot, Wilson County
- Ellerbe Community Lake, Richmond County
- Indian Lake, Edgecombe County
- Harris Lake County Park Ponds, Wake County
- Park Road Pond, Mecklenburg County
- Etheridge Pond on the Barnhill Public Fishing Area, Edgecombe County
- Newbold Pond on the Barnhill Public Fishing Area, Edgecombe County

History Note: Temporary Amendment Eff. December 1, 1994; Authority G.S. 113-134; 113-272; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1996; July 1, 1995; July 1, 1994; July 1, 1993; May 1, 1992; Temporary Amendment Eff. July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Amended Eff. July 2, 2002.

15A NCAC 10C .0407 PERMITTED SPECIAL DEVICES AND OPEN SEASONS

Except in designated public mountain trout waters, and in impounded waters located on the Sandhills Game Land, there is

a year-round open season for the licensed taking of nongame fishes by bow and arrow. The use of special fishing devices in impoundments located entirely on game lands is prohibited. Seasons and waters in which the use of other special devices is authorized are indicated by counties below:

- (1) Alamance:
 - (a) July 1 to August 31 with seines in Alamance Creek below NC 49 bridge and Haw River;
 - (b) July 1 to June 30 with gigs in all public waters;
- (2) Alexander: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lake Hickory and Lookout Shoals Reservoir;
- (3) Alleghany: July 1 to June 30 with gigs in New River, except designated public mountain trout waters;
- (4) Anson:
 - (a) July 1 to June 30 with traps and gigs in all public waters;
 - (b) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the lower end of Goat Island;
 - (c) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
- (5) Ashe: July 1 to June 30 with gigs in New River (both forks), except designated public mountain trout waters;
- (6) Beaufort:
 - (a) July 1 to June 30 with traps in the Pungo River, and in the Tar and Pamlico Rivers above Norfolk and Southern Railroad bridge; and with gigs in all inland public waters;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters;
- (7) Bertie:
 - (a) July 1 to June 30 with traps in the Broad Creek (tributary of Roanoke);
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (8) Bladen: December 1 to June 5 with dip and bow nets in Black River;
- (9) Brunswick: December 1 to May 1 with dip and bow nets in Alligator Creek, Hoods Creek, Indian Creek, Orton Creek below Orton Pond, Rices Creek, Sturgeon Creek and Town Creek;
- (10) Buncombe: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (11) Burke:
 - (a) July 1 to August 31 with seines in all running public waters, except Johns

APPROVED RULES

- | | | | |
|------|---|------|---|
| | River and designated public mountain trout waters; | (21) | Clay: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; |
| (b) | July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James; | (22) | Cleveland: |
| (12) | Cabarrus: | (a) | July 1 to August 31 with seines in all running public waters; |
| (a) | July 1 to August 31 with seines in all running public waters, | (b) | July 1 to June 30 with gigs, traps and spear guns in all public waters; |
| (b) | July 1 to June 30 with traps and gigs in all public waters; | (23) | Columbus: |
| (13) | Caldwell: July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters; | (a) | December 1 to March 1 with gigs in all inland public waters, except Lake Waccamaw and its tributaries; |
| (14) | Camden: | (b) | December 1 to June 5 with dip and bow nets in Livingston Creek; |
| (a) | July 1 to June 30 with traps in all inland public waters; | (24) | Craven: |
| (b) | December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; | (a) | July 1 to June 30 with traps in the main run of the Trent and Neuse Rivers; |
| (15) | Carteret: December 1 to June 5 with dip and bow nets in all inland public waters except South River and the tributaries of the White Oak River; | (b) | December 1 to June 5 with dip and bow nets in all inland public waters, except Pitch Kettle, Grindle, Slocum (downstream of the US 70 bridge), Spring and Hancock Creeks and their tributaries; and with seines in the Neuse River; |
| (16) | Caswell: | (25) | Currituck: |
| (a) | July 1 to June 30 with gigs in all public waters; | (a) | July 1 to June 30 with traps in Tulls Creek and Northwest River; |
| (b) | July 1 to August 31 with seines in all running public waters, except Moons Creek; | (b) | December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; |
| (c) | July 1 to June 30 with traps in Hyco Reservoir; | (26) | Dare: |
| (17) | Catawba: | (a) | July 1 to June 30 with traps in Mashoes Creek, Milltail Creek, East Lake and South Lake; |
| (a) | July 1 to August 31 with seines in all running public waters, except Catawba River below Lookout Dam; | (b) | December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; |
| (b) | July 1 to June 30 with traps, spear guns, and gigs in all public waters; | (27) | Davidson: |
| (18) | Chatham: | (a) | July 1 to August 31 with seines in all running public waters, |
| (a) | December 1 to April 15 with dip and gill nets in the Cape Fear River, Deep River, Haw River and Rocky River (local law); | (b) | July 1 to June 30 with gigs in all public waters, and with traps in all public waters except Leonard's Creek, Abbott's Creek below Lake Thom-A-Lex dam, and the Abbott's Creek arm of High Rock Lake upstream from the NC 8 bridge; |
| (b) | July 1 to August 31 with seines in the Cape Fear River, and Haw River; | (28) | Davie: |
| (c) | July 1 to June 30 with traps in Deep River; and with gigs in all public waters; | (a) | July 1 to June 30 with traps and gigs in all public waters; |
| (19) | Cherokee: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; | (b) | July 1 to August 31 for taking only carp and suckers with seines in Dutchmans Creek from US 601 to Yadkin River and in Hunting Creek from SR 1338 to South Yadkin River; |
| (20) | Chowan: | (29) | Duplin: December 1 to June 5 with dip and bow nets and seines in the main run of the |
| (a) | December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters; | | |
| (b) | July 1 to June 30 with traps in all inland public waters, excluding public lakes, ponds, and other impounded waters; | | |

APPROVED RULES

- (30) Northeast Cape Fear River downstream from a point one mile above Serecta Bridge;
Durham:
(a) July 1 to August 31 with seines in Neuse River,
(b) July 1 to June 30 with gigs in all public waters;
- (31) Edgecombe: December 1 to June 5 with dip and bow nets in all public waters;
- (32) Forsyth: July 1 to June 30 with traps and gigs in all public waters, except traps may not be used in Belews Creek Reservoir;
- (33) Franklin:
(a) July 1 to August 31 with seines in Tar River;
(b) July 1 to June 30 with gigs in all public waters, except Parrish, Laurel Mill, Jackson, Clifton, Moore's and Perry's Ponds, and in the Franklinton City ponds;
- (34) Gaston:
(a) July 1 to August 31 with seines in all running public waters;
(b) July 1 to June 30 with gigs, traps and spear guns in all public waters;
- (35) Gates: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (36) Graham: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (37) Granville:
(a) July 1 to June 30 with gigs in all public waters, except Kerr Reservoir;
(b) July 1 to August 31 with seines in the Neuse River and the Tar River below US 158 bridge;
(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
(d) July 1 to June 30 with cast nets in all public waters;
- (38) Greene: December 1 to June 5 with dip and bow nets and reels in Contentnea Creek;
- (39) Guilford:
(a) July 1 to August 31 with seines in Haw River, Deep River below Jamestown Dam, and Reedy Fork Creek below US 29 bridge;
(b) July 1 to June 30 with gigs in all public waters;
- (40) Halifax:
(a) December 1 to June 5 with dip and bow nets in Beech Swamp, Clarks Canal, Conoconnara Swamp, Fishing Creek below the Fishing Creek Mill Dam, Kehukee Swamp, Looking Glass Gut, Quankey Creek, and White's Mill Pond Run;
- (b) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (41) Harnett:
(a) January 1 to May 31 with gigs in Cape Fear River and tributaries;
(b) December 1 to June 5 with dip and bow nets in Cape Fear River;
- (42) Haywood: July 1 to June 30 with gigs in all public waters, except Lake Junaluska and designated public mountain trout waters;
- (43) Henderson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (44) Hertford:
(a) July 1 to June 30 with traps in Wiccacon Creek;
(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (45) Hyde:
(a) July 1 to June 30 with traps in all inland waters;
(b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (46) Iredell: July 1 to June 30 with traps and gigs in all public waters; and with spear guns in Lookout Shoals Reservoir and Lake Norman;
- (47) Jackson: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (48) Johnston: December 1 to June 5 with dip and bow nets in Black Creek, Little River, Middle Creek, Mill Creek, Neuse River and Swift Creek;
- (49) Jones:
(a) July 1 to June 30 with traps in the Trent River below US 17 bridge and White Oak River below US 17 bridge;
(b) December 1 to June 5 with dip and bow nets in all inland public waters, except the tributaries to the White Oak River;
- (50) Lee:
(a) December 1 to April 15 with dip and gill nets (local law) in Cape Fear River and Deep River; and with gill nets in Morris Pond;
(b) July 1 to August 31 with seines in Cape Fear River;
(c) July 1 to June 30 with traps in Deep River, and with gigs in all public waters;
- (51) Lenoir:
(a) July 1 to June 30 with traps in Neuse River below US 70 bridge at Kinston;

APPROVED RULES

- (b) December 1 to June 5 with dip and bow nets in Neuse River and Contentnea Creek upstream from NC 118 bridge at Grifton; and with seines in Neuse River;
- (52) Lincoln:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters;
- (53) McDowell:
- (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;
- (b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters and Lake James;
- (54) Macon: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (55) Madison: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;
- (56) Martin: December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (57) Mecklenburg:
- (a) July 1 to August 31 with seines in all running public waters;
- (b) July 1 to June 30 with traps, gigs and spear guns in all public waters except Freedom Park Pond and Hornet's Nest Ponds;
- (58) Montgomery:
- (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
- (b) July 1 to June 30 with traps and gigs in all public waters;
- (59) Moore:
- (a) December 1 to April 15 with gill nets in Deep River and all tributaries;
- (b) July 1 to August 31 with seines in all running public waters except in Deep River;
- (c) July 1 to June 30 with gigs in all public waters, except lakes located on the Sandhills Game Land; and with traps in Deep River and its tributaries;
- (60) Nash:
- (a) July 1 to June 30 with gigs in all public waters, except Tar River;
- (b) December 1 to June 5 with dip and bow nets in the Tar River below Harris' Landing and Fishing Creek below the Fishing Creek Mill Dam;
- (61) New Hanover: December 1 to June 5 with dip and bow nets in all inland public waters, except Sutton (Catfish) Lake;
- (62) Northampton:
- (a) July 1 to June 30 with gigs in all public waters, except Gaston and Roanoke Rapids Reservoirs and the Roanoke River above the US 301 bridge;
- (b) December 1 to June 5 with dip and bow nets in Occoneechee Creek, Old River Landing Gut and Vaughans Creek below Watsons Mill;
- (c) July 1 to June 30 with dip and cast nets in Gaston Reservoir and Roanoke Rapids Reservoir;
- (63) Onslow:
- (a) July 1 to June 30 with traps in White Oak River below US 17 bridge;
- (b) August 1 to March 31 with eel pots in the main run of New River between US 17 bridge and the mouth of Hawkins Creek;
- (c) December 1 to June 5 with dip and bow nets in the main run of New River and in the main run of the White Oak River;
- (d) March 1 to April 30 with dip and bow nets in Grant's Creek;
- (64) Orange:
- (a) July 1 to August 31 with seines in Haw River;
- (b) July 1 to June 30 with gigs in all public waters;
- (65) Pamlico: December 1 to June 5 with dip and bow nets in all inland public waters, except Dawson Creek;
- (66) Pasquotank:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;
- (67) Pender:
- (a) December 1 to June 5 with dip and bow nets in the Northeast Cape Fear River, Long Creek and Black River; and with seines in the main run of Northeast Cape Fear River;
- (b) December 1 to May 1 with dip and bow nets in Moore's Creek approximately one mile upstream to New Moon Fishing Camp;
- (68) Perquimans:
- (a) July 1 to June 30 with traps in all inland waters;
- (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding public lakes, ponds, and other impounded waters;

APPROVED RULES

- | | |
|--|--|
| <p>(69) Person:
 (a) July 1 to August 31 with seines in Hyco Creek and Mayo Creek;
 (b) July 1 to June 30 with gigs in all public waters.</p> | <p>(b) July 1 to June 30 with traps, gigs, and spear guns in all public waters, except designated public mountain trout waters;</p> |
| <p>(70) Pitt:
 (a) July 1 to June 30 with traps in Neuse River and in Tar River below the mouth of Hardee Creek east of Greenville;
 (b) December 1 to June 5 with dip and bow nets in all inland public waters, except Grindle Creek, and Contentnea Creek between NC 118 bridge at Grifton and the Neuse River;
 (c) December 1 to June 5 with seines in Tar River;</p> | <p>(78) Sampson: December 1 to June 5 with dip and bow nets in Big Coharie Creek, Black River and Six Runs Creek;</p> <p>(79) Stanly:
 (a) July 1 to August 31 with seines in all running public waters, except that part of the Pee Dee River between the Lake Tillery dam at Hydro and the mouth of Rocky River;
 (b) July 1 to June 30 with traps and gigs in all public waters;</p> |
| <p>(71) Polk: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> | <p>(80) Stokes: July 1 to June 30 with traps and gigs in all public waters, except designated public mountain trout waters, and traps may not be used in Belews Creek Reservoir;</p> |
| <p>(72) Randolph:
 (a) December 1 to March 1 with gill nets in Deep River and Uwharrie River;
 (b) July 1 to August 31 with seines in Deep River above the Coleridge Dam and Uwharrie River;
 (c) July 1 to June 30 with gigs in all public waters;</p> | <p>(81) Surry: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters; and with traps in the main stem of Yadkin River;</p> <p>(82) Swain: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> <p>(83) Transylvania: July 1 to June 30 with gigs in all public waters, except designated public mountain trout waters;</p> |
| <p>(73) Richmond:
 (a) July 1 to August 31 with seines in all running public waters, except Pee Dee River from Blewett Falls downstream to the Seaboard Coast Line Railroad trestle;
 (b) July 1 to June 30 with traps and gigs in all public waters, except lakes located on the Sandhills Game Land;
 (c) December 1 to June 5 with dip and bow nets in Pee Dee River below Blewett Falls Dam, and with gill nets in Pee Dee River below the mouth of Cartledge Creek;</p> | <p>(84) Tyrrell:
 (a) July 1 to June 30 with traps in Scuppernong River, Alligator Creek, and the drainage canals of Lake Phelps;
 (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impounded waters;</p> |
| <p>(74) Robeson: December 1 to March 1 with gigs in all inland public waters.</p> | <p>(85) Union:
 (a) July 1 to August 31 with seines in all running public waters,
 (b) July 1 to June 30 with traps and gigs in all public waters;</p> |
| <p>(75) Rockingham:
 (a) July 1 to August 31 with seines in Dan River and Haw River;
 (b) July 1 to June 30 with traps in Dan River; and with gigs in all public waters;</p> | <p>(86) Vance:
 (a) July 1 to August 31 with seines in the Tar River;
 (b) July 1 to June 30 with gigs in all public waters, except Rolands, Faulkners, Southerlands, and Weldon Ponds, City Lake, and Kerr Reservoir;</p> |
| <p>(76) Rowan:
 (a) July 1 to August 31 with seines in all running public waters,
 (b) July 1 to June 30 with traps and gigs in all public waters;</p> | <p>(c) July 1 to June 30 with dip and cast nets in Kerr Reservoir;
 (d) July 1 to June 30 with cast nets in all public waters;</p> |
| <p>(77) Rutherford:
 (a) July 1 to August 31 with seines in all running public waters, except designated public mountain trout waters;</p> | <p>(87) Wake:
 (a) July 1 to June 30 with gigs in all public waters, except Sunset, Benson, Wheeler, Raleigh, and Johnson Lakes;</p> |

- (b) December 1 to June 5 with dip and bow nets in the Neuse River below Milburnie Dam, and Swift Creek below Lake Benson Dam;
- (88) Warren:
 - (a) July 1 to August 31 with seines in Fishing Creek, Shocco Creek, and Walker Creek; excluding Duck and Hammes Mill Ponds;
 - (b) July 1 to June 30 with gigs in all public waters, except Duck and Hammes Mill Ponds, Kerr Reservoir, and Gaston Reservoir;
 - (c) July 1 to June 30 with dip and cast nets in Kerr Reservoir and Gaston Reservoir;
 - (d) July 1 to June 30 with cast nets in all public waters;
- (89) Washington:
 - (a) July 1 to June 30 with traps in the drainage canals of Lake Phelps;
 - (b) December 1 to June 5 with dip and bow nets in all inland public waters, excluding Lake Phelps, public lakes, ponds and other impoundments;
- (90) Wayne: December 1 to June 5 with dip and bow nets in Little River, Mill Creek and Neuse River.
- (91) Wilkes: July 1 to June 30 with traps in Yadkin River below W. Kerr Scott Reservoir; and with gigs and spear guns in all public waters, except designated public mountain trout waters;
- (92) Wilson:
 - (a) July 1 to June 30 with gigs in Contentnea Creek (except Buckhorn Reservoir), including unnamed tributaries between Flowers Mill and SR 1163 (Deans) bridge;
 - (b) December 1 to June 5 with dip and bow nets in Contentnea Creek below US 301 bridge and in Toisnot Swamp downstream from the Lake Toisnot Dam;
- (93) Yadkin: July 1 to June 30 with gigs in all public waters, and with traps in the main stem of Yadkin River.

enacted by the National Park Service regarding the use of the Blue Ridge Parkway where it adjoins game lands listed in this Rule.

(b) Traffic Requirements. No person shall park a vehicle on game lands in such a manner as to block traffic, 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 shall not apply to lag-screw steps or portable stands that are removed after use with no metal left remaining in or attached to the tree.

(d) Time and Manner of Taking. Except where closed to hunting or limited to specific dates by this Chapter, hunting on game lands is permitted during the open season for the game or furbearing species being hunted. On posted waterfowl impoundments, hunters shall not enter the posted impoundment areas earlier than 4:00 a.m. on the permitted hunting dates, and hunting is prohibited after 1:00 p.m. on such hunting dates; decoys shall not be set out prior to 4:00 a.m. and must be removed by 3:00 p.m. each day. No person shall operate any vessel or vehicle powered by an internal combustion engine on a managed waterfowl impoundment. 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 which has been so mutilated. No person shall place, or cause to be placed on any game land, salt, grain, fruit, or other foods without prior written authorization of the commission or its agent. A decision to grant or deny authorization shall be made based on the best management practices for the wildlife species in question. No person shall take or attempt to take any game birds or game animals attracted to such foods. No live wild animals or live wild birds shall be removed from any game land.

(e) Definitions:

(1) For purposes of this Section "Eastern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(A); "Central" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(D); "Northwestern" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(B); "Western" season refers to seasons set for those counties or parts of counties listed in 15A NCAC 10B .0203(b)(1)(C).

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

(3) For purposes of this Section, "Three Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons and hunting is limited to Mondays, Wednesdays, Saturdays and Thanksgiving, Christmas and New Year's Days. These "open days" also apply to either-sex hunting seasons listed under each game land. Raccoon and

History Note: Temporary Amendment Eff. December 1, 1993; Temporary Amendment Eff. December 29, 1988; Authority G.S. 113-134; 113-276; 113-292; Eff. February 1, 1976; Amended Eff. July 1, 2000; July 1, 1998; July 1, 1996; December 1, 1995; July 1, 1995; July 1, 1994; June 1, 1994; Temporary Amendment Eff. July 1, 2001; Amended Eff. July 1, 2002.

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 special restrictions

APPROVED RULES

- opossum hunting may continue until 7:00 a.m. on Tuesdays, until 7:00 a.m. on Thursdays, and until midnight on Saturdays.
- (4) For purposes of this Section, "Six Days per Week Area" refers to a Game Land on which any game may be taken during the open seasons, except that:
- (A) Bears shall not be taken on lands designated and posted as bear sanctuaries;
- (B) Wild boar shall not be taken with the use of dogs on such bear sanctuaries, and wild boar may be hunted only during the bow and arrow seasons, the muzzle-loading deer season and the regular gun season on male deer on bear sanctuaries;
- (C) On game lands open to deer hunting located in or west of the counties of Rockingham, Guilford, Randolph, Montgomery and Anson, the following rules apply to the use of dogs during the regular season for hunting deer with guns:
- (i) Except for the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, game birds may be hunted with dogs.
- (ii) In the counties of Cherokee, Clay, Graham, Jackson, Macon, Madison, Polk, and Swain, small game in season may be hunted with dogs on all game lands except on bear sanctuaries.
- (D) On bear sanctuaries in and west of Madison, Buncombe, Henderson and Polk counties dogs shall not be trained or allowed to run unleashed between March 1 and the Monday on or nearest October 15;
- (f) Game Lands Seasons and Other Restrictions:
- (1) Alcoa Game Land in Davidson, Davie, Montgomery, Rowan and Stanly counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season in that portion in Montgomery county and deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season in those portions in Davie, Davidson, Rowan and Stanly counties.
- (2) Angola Bay Game Land in Duplin and Pender counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (3) Bachelor Bay Game Land in Bertie and Washington counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (4) Bertie County Game Land in Bertie County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (5) Bladen Lakes State Forest Game Land in Bladen County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Saturday preceding Eastern bow season with bow and arrow and the Friday preceding the Eastern muzzle-loading season with any legal weapon (with weapons exceptions described in this Paragraph) by participants in the Disabled Sportsman Program.
- (C) Handguns shall not be carried and, except for muzzle-loaders, rifles larger than .22 caliber rimfire shall not be used or possessed.
- (D) On the Breece Tract and the Singletary Tract deer and bear may be taken only by still hunting.
- (E) Wild turkey hunting is by permit only.
- (6) Brunswick County Game Land in Brunswick County. Permit Only Area
- (7) Bullard and Branch Hunting Preserve Game Lands in Robeson County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (8) Butner - Falls of Neuse Game Land in Durham, Granville and Wake counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 p.m. On the posted waterfowl impoundments a special permit is

APPROVED RULES

- required for all waterfowl hunting after November 1.
- (D) Horseback riding, including all equine species, is prohibited.
- (E) Target shooting is prohibited
- (F) Wild turkey hunting is by permit only.
- (9) Cape Fear Game Land in Pender County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (C) Turkey Hunting is by permit only on that portion known as the Roan Island Tract.
- (10) Caswell Game Land in Caswell County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Central muzzle-loading season by participants in the Disabled Sportsman Program.
- (C) Horseback riding is allowed only during June, July, and August and on Sundays during the remainder of the year except during open turkey and deer seasons. Horseback riding is allowed only on roads opened to vehicular traffic. Participants must obtain a game lands license prior to engaging in such activity.
- (11) Caswell Farm Game Land in Lenoir County-Dove-Only Area: Dove hunting is by permit only during the first two open days of the first segment of dove season.
- (12) Catawba Game Land in Catawba County
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (C) Deer may be taken with bow and arrow only from the tract known as Molly's Backbone.
- (13) Chatham Game Land in Chatham and Harnett counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (14) Cherokee Game Land in Ashe County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (15) Chowan Game Land in Chowan County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the days of the applicable Deer With Visible Antlers Season.
- (16) Chowan Swamp Game Land in Gates County
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (17) Cold Mountain Game Land in Haywood County
- (A) Six Days per Week Area
- (B) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (18) Columbus County Game Land in Columbus County.
- (A) Three Days per Week Area
- (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (19) Croatan Game Land in Carteret, Craven and Jones counties
- (A) Six Days per Week Area
- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
- (20) Currituck Banks Game Land in Currituck County
- (A) Six Days per Week Area
- (B) Permanent waterfowl blinds in Currituck Sound adjacent to these game lands shall be hunted by permit only after November 1.
- (C) Licensed hunting guides may accompany the permitted individual or party provided the guides do not possess or use a firearm.
- (D) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
- (E) Dogs shall be allowed only for waterfowl hunting by permitted waterfowl hunters on the day of their hunt.
- (F) No screws, nails, or other objects penetrating the bark will be used to attach a tree stand or blind to a tree.
- (21) Dare Game Land in Dare County
- (A) Six Days per Week Area

APPROVED RULES

- (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) No hunting on posted parts of bombing range.
 - (D) The use and training of dogs is prohibited from March 1 through June 30.
- (22) Dupont State Forest Game Lands in Henderson and Transylvania counties
- (A) Hunting is by Permit only.
 - (B) The training and use of dogs for hunting except during scheduled small game permit hunts for squirrel, grouse, rabbit, or quail is prohibited.
 - (C) Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
- (23) Dysartsville Game Land in McDowell and Rutherford counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (24) Elk Knob Game Land in Ashe and Watauga counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (25) Gardner-Webb Game Land in Cleveland County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (26) Goose Creek Game Land in Beaufort and Pamlico counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) On posted waterfowl impoundments waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the duck hunting seasons. After November 1, on the Pamlico Point, Campbell Creek, Hunting Creek and Spring Creek impoundments, a special permit is required for hunting on opening and closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day.
- (27) Green River Game Land in Henderson, and Polk counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through-August 31 and all horseback riding is prohibited from September 1 through May 15. This rule includes all equine species.
- (28) Green Swamp Game Land in Brunswick County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (29) Gull Rock Game Land in Hyde County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) On the posted waterfowl impoundments of Gull Rock Game Land hunting of any species of wildlife is limited to Mondays, Wednesdays, Saturdays; Thanksgiving, Christmas, and New Year's Days; and the opening and closing days of the applicable waterfowl seasons.
- (30) Hickorynut Mountain Game Land in McDowell County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (31) Hofmann Forest Game Land in Jones and Onslow counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (32) Holly Shelter Game Land in Pender County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Deer of either sex may also be taken the Friday preceding the Eastern muzzle-loading season with any legal weapon and the Saturday preceding Eastern bow season with bow and arrow by participants in the Disabled Sportsman Program
 - (C) Waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons regardless of the day of the week on which they occur.

APPROVED RULES

- (33) Hyco Game land in Person County
(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (34) J. Morgan Futch Game Land in Tyrrell County, Permit Only Area.
- (35) Jordan Game Land in Chatham, Durham, Orange and Wake counties
(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
(C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
(D) Horseback riding, including all equine species, is prohibited.
(E) Target shooting is prohibited.
(F) Wild turkey hunting is by permit only.
- (36) Lantern Acres Game Land in Tyrrell and Washington counties
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (37) Lee Game Land in Lee County
(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (38) Linwood Game Land in Davidson County
(A) Six Days per Week Area
(B) Deer of either sex may be taken on all of the open days of the applicable Deer With Visible Antlers Season.
- (39) Nantahala Game Land in Cherokee, Clay, Graham, Jackson, Macon, Swain and Transylvania counties
(A) Six Days per Week Area
(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season in that portion located in Transylvania County.
(C) Raccoon and opossum may be hunted only from sunset Friday until sunrise on Saturday and from sunset until 12:00 midnight on Saturday on Fires Creek Bear Sanctuary in Clay County and in that part of Cherokee County north of US 64 and NC 294, east of Persimmon Creek and Hiwassee Lake, south of Hiwassee Lake and west of Nottely River; in the same part of Cherokee County dog training is prohibited from March 1 to the Monday on or nearest October 15.
- (40) Neuse River Game Land in Craven County
(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (41) New Lake Game Land in Hyde County
(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (42) North River Game Land in Currituck County
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
- (43) Northwest River Marsh Game Land in Currituck County
(A) Six Days per Week Area
(B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
(C) The boundary of the Game Land shall extend 5 yards from the edge of the marsh or shoreline.
- (44) Pee Dee River Game Land in Anson, Montgomery, Richmond and Stanly counties
(A) Six Days per Week Area
(B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
(C) Use of centerfire rifles prohibited in that portion in Anson and Richmond counties North of US-74.
(D) On that part of Pee Dee River Game Lands between Blewett Falls Dam and the South Carolina state line waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons. Waterfowl shall not be taken after 1:00 pm in this area.
- (45) Perkins Game Land in Davie County
(A) Three Days per Week Area
(B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (46) Person Game Land in Person County
(A) Six Days per Week Area

- (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (C) Waterfowl may be taken only on Tuesdays, Thursdays and Saturdays, Christmas and New Year's Days, and on the opening and closing days of the applicable waterfowl seasons.
- (47) Pisgah Game Land in Avery, Buncombe, Burke, Caldwell, Haywood, Henderson, Madison, McDowell, Mitchell, Transylvania, Watauga and Yancey counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season except on that portion in Avery and Yancey counties and that portion in Haywood County encompassed by US 276 on the north, US 74 on the west, and the Blue Ridge Parkway on the south and east.
 - (C) Harmon Den and Sherwood Bear Sanctuaries in Haywood County are closed to hunting raccoon, opossum and wildcat. Training raccoon and opossum dogs is prohibited from March 1 to the Monday on or nearest October 15 in that part of Madison County north of the French Broad River, south of US 25-70 and west of SR 1319.
- (48) Pungo River Game Land in Hyde County
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
- (49) Roanoke River Wetlands in Bertie, Halifax and Martin counties-Hunting is by Permit only. Vehicles are prohibited on roads or trails except those operated on official Commission business or by permit holders.
- (50) Roanoke Sound Marshes Game Land in Dare County-Hunting is by permit only.
- (51) Robeson Game Land in Robeson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (52) Sampson Game Land in Sampson County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (53) Sandhills Game Land in Moore, Richmond and Scotland counties
 - (A) Three Days per Week Area
 - (B) The Deer With Visible Antlers season for deer consists of the open hunting days from the second Saturday before Thanksgiving through the third Saturday after Thanksgiving except on the field trial grounds where the gun season is open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving. Deer may be taken with bow and arrow on all open hunting days during the bow and arrow season, as well as during the regular gun season. Deer may be taken with muzzle-loading firearms on open days beginning the third Saturday before Thanksgiving through the following Wednesday, and during the Deer With Visible Antlers season.
- (C) Deer of either-sex may be taken during the first 3 open days of the Deer With Visible Antlers season. For participants in the Disabled Sportsman Program, either-sex deer hunting with any legal weapon is permitted on all areas the Thursday and Friday prior to the muzzle-loading season described in the preceding paragraph. Except for the deer and rabbit seasons specifically indicated for the field trial grounds in this Rule and Disabled Sportsman Program hunts, the field trial grounds are closed to all hunting during the period October 22 to March 31.
- (D) In addition to the regular hunting days, waterfowl may be taken on the opening and closing days of the applicable waterfowl seasons
- (E) Wild turkey hunting is by permit only.
- (F) Dove hunting on the field trial grounds will be prohibited from the second Sunday in September through the remainder of the hunting season.
- (G) Rabbit hunting on the field trial grounds will be allowed on open days from the second Monday before Thanksgiving through the Saturday following Thanksgiving.
- (54) Sauratown Plantation Game Land in Stokes County
 - (A) Three Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season.
- (55) Scuppernong Game Land in Tyrrell and Washington counties
 - (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.

APPROVED RULES

- (56) Shearon Harris Game Land in Chatham and Wake counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Tuesdays, Fridays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the applicable waterfowl seasons.
 - (D) The use or construction of permanent hunting blinds is prohibited.
 - (E) Wild turkey hunting is by permit only.
- (57) South Mountains Game Land in Burke, Cleveland, McDowell and Rutherford counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (58) Suggs Mill Pond Game Land in Bladen County; Hunting is by Permit only.
- (59) Sutton Lake Game Land in New Hanover County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
- (60) Three Top Mountain Game Land in Ashe County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (61) Thurmond Chatham Game Land in Wilkes County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last six open days of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take either-sex deer with bow and arrow on the Saturday prior to Northwestern bow and arrow season.
- (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (62) Toxaway Game Land in Transylvania County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the last open day of the applicable Deer With Visible Antlers Season. Participants of the Disabled Sportsman Program may also take deer of either sex with any legal weapon on the Saturday prior to the first segment of the Western bow and arrow season.
 - (C) Horseback riding is prohibited except on designated trails May 16 through August 31 and all horseback riding is prohibited from September 1 through May 15. This Rule includes all equine species.
- (63) Uwharrie Game Land in Davidson, Montgomery and Randolph counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken the first six open days and the last open six days of the applicable Deer With Visible Antlers Season.
- (64) Vance Game Land in Vance County
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) The use of dogs, centerfire rifles and handguns for hunting deer is prohibited on the Nutbush Peninsula tract.
- (65) Van Swamp Game Land in Beaufort and Washington counties
- (A) Six Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
- (66) White Oak River Impoundment Game Land in Onslow County
- (A) Three Days per Week Area
 - (B) Deer of either sex may be taken all the open days of the applicable Deer With Visible Antlers Season.
 - (C) Waterfowl may be taken only on Mondays, Wednesdays, Saturdays; on Thanksgiving, Christmas and New Year's Days; and on the opening and closing days of the statewide waterfowl hunting seasons. After October 1, a special permit is required for hunting waterfowl on opening and

closing days of the duck seasons, Saturdays of the duck seasons, and on Thanksgiving and New Year's day.

(g) On permitted type hunts deer of either sex may be taken on the hunt dates indicated on the permit. Completed applications must 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 shall be nontransferable. A hunter making a kill must validate the kill and report the kill to a wildlife cooperater agent or by phone.

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

- Bertie, Halifax and Martin counties--Roanoke River Wetlands
- Bertie County--Roanoke River National Wildlife Refuge
- Bladen County—Suggs Mill Pond Game Lands
- Burke County—John's River Waterfowl Refuge
- Dare County--Dare Game Lands (Those parts of bombing range posted against hunting)
- Dare County--Roanoke Sound Marshes Game Lands
- Davie--Hunting Creek Swamp Waterfowl Refuge
- Gaston, Lincoln and Mecklenburg counties--Cowan's Ford Waterfowl Refuge
- Henderson and Transylvania counties--Dupont State Forest Game Lands

History Note: Temporary Amendment Eff. October 3, 1991; Authority G.S. 113-134; 113-264; 113-291.2; 113-291.5; 113-305; Eff. February 1, 1976; Amended Eff. July 1, 1998; July 1, 1997; July 1, 1996; September 1, 1995; July 1, 1995; September 1, 1994; July 1, 1994; Temporary Amendment Eff. October 1, 1999; July 1, 1999; Amended Eff. July 1, 2000; Temporary Amendment Eff. July 1, 2001; Amended Eff. July 1, 2002.

TITLE 16 – DEPARTMENT OF PUBLIC EDUCATION

SECTION .0300 – DRIVER TRAINING

16 NCAC 06E .0301 DRIVER TRAINING

(a) In discharging their duty to provide a course of training and instruction in the operation of motor vehicles as set forth in G.S. 115C-216, local boards of education shall provide a program which meets the following standards and requirements:

- (1) Principals shall enroll students who meet the criteria established by G.S. 20-88.1(a)(i), (iii) and (iv);
- (2) The program will be free of charge to eligible students;
- (3) Enrollees must obtain either a temporary learner's permit or a restricted instruction permit before they begin behind-the-wheel instruction.

- (4) Classroom instruction will consist of at least 30 clock hours of instruction. Beginning in school year 1992-93, students may take and pass a proficiency examination developed or designated by the Department of Public Instruction to waive the classroom instruction. Each student must complete a minimum of 6 hours of behind-the-wheel instruction.
- (5) The program will be reasonably available on a year-round basis to all eligible persons.
- (6) The local board of education will determine class size restrictions, but may not allow instruction in the car to less than two nor more than four students.
- (7) The local board of education will determine the amount of instruction per day for classroom or in-car instruction or a combination of both.
- (8) The local board of education will issue a certificate to students who satisfactorily complete the prescribed course.
- (9) Driver education instructors must possess a valid North Carolina driver's license and must have a driving record acceptable to the local board of education. In addition, instructors hired for driver education shall either:
 - (A) hold a driver education certificate issued by the SBE; or
 - (B) have non-certified status according to minimum standards established by Rule .0302 of this Section.
- (10) The program shall not be provided during the regular instructional day.
 - (b) Two or more local boards of education may jointly operate a program under a written agreement meeting the requirements of G.S. 160A-460 et seq. The agreement shall provide for one local board of education to assume administrative responsibility for the program.
 - (c) For purposes of G.S. 20-11, G.S. 20-13.2(c1), and G.S. 115C-12(28), the following definitions shall apply:
 - (1) "High school diploma or its equivalent" means and includes the General Equivalency Diploma (G.E.D.) and the adult high school diploma.
 - (2) "Making progress toward obtaining a high school diploma" means that the student must pass at least seventy percent (70%) of the maximum of possible courses each semester and meet promotion standards established by the LEA.
 - (3) "Substantial hardship" means a demonstrable burden on the student or the student's family as evidenced by circumstances such as the following:
 - (A) The parent is unable to drive due to sickness or other impairment and the student is the only person of driving age in the household.
 - (B) The student requires transportation to and from a job that is necessary to the welfare of the student's family and the

student is unable to obtain transportation by any means other than driving.

December 10, 2000;
Amended Eff. July 1, 2002.

(C) The student has been unable to attend school due to documented medical reasons, but the student is demonstrating the ability to maintain progress toward obtaining a high school diploma.

(4) A "student who cannot make progress toward obtaining a high school diploma or its equivalent" shall mean a student who has been identified by the principal or principal's designee, together with the IEP committee or the school's student assistance team, as not having the capacity to meet the requirements for a high school diploma or its equivalent due to a disability.

(5) "Exemplary behavior" shall mean that a student whose operator's permit or license has been revoked pursuant to G.S. 20-13.2(c1) and who has returned to school has, since returning to school:

(A) had no additional incidents of misconduct for which expulsion, suspension, or assignment to an alternative educational setting is required; and

(B) had no violations of local school board policies such as attendance, dress codes, or other behaviors that may result in disciplinary action against the student.

(6) "Successful completion of a treatment counseling program" shall mean completion of a minimum of 12 hours of drug or alcohol treatment, counseling, a mental health treatment program, or other intervention program required by the LEA.

(d) Each LEA shall determine the process by which decisions concerning the issuance of a driving eligibility certificate shall be appealed.

(e) The principal of a high school or the principal's designee shall notify the Division of Motor Vehicles whenever a student is no longer making progress toward obtaining a high school diploma or its equivalent or when the student has dropped out of school.

(f) Each charter school, non-public school, and community college shall designate an official who shall notify the Division of Motor Vehicles whenever a student is no longer making progress toward obtaining a high school diploma.

History Note: Filed as a Temporary Adoption Eff. August 12, 1991 for a period of 180 days to expire on February 7, 1992; Authority G.S. 20-88.1; 115C-12(28); 115C-216; ARRC Objection Lodged August 22, 1991; Eff. March 1, 1992; Temporary Amendment Eff. August 15, 1998; Temporary Amendment Eff. March 15, 2000; Amended Eff. July 1, 2000; Temporary Amendment Eff. March 15, 2000 expired on

TITLE 19A – DEPARTMENT OF TRANSPORTATION

SECTION .0600 – OVERSIZE-OVERWEIGHT PERMITS

19A NCAC 02D .0601 PERMITS-AUTHORITY, APPLICATION AND ENFORCEMENT

(a) The State Highway Administrator or his designee shall issue oversize/overweight permits for qualifying vehicles. Irrespective of the route shown on the permit, a permitted vehicle shall travel an alternate route:

- (1) if directed by a law enforcement officer with jurisdiction;
- (2) if directed by an official traffic control device to follow a route to a weighing device.
- (3) if the specified route on the permit is detoured by an officially erected highway sign, traffic control devices, or law enforcement officer, the driver of the permitted vehicle shall contact the Central Permit Office or the issuing field office for house move permits as soon as reasonably possible for clearance of route or revision of the permit.

(b) Prior to application for an oversize, overweight, or oversize/overweight permit, the vehicle/vehicle combination and the commodity in transport shall be reduced or loaded to the least practical dimensions and weight. Application for permits with the exception of house move permits shall be made to the Central Permit Office in writing on forms approved by the Department of Transportation or via telephone. Written applications are required for over heights in excess of 14'. Applications for permits shall be submitted in writing to the Central Permit Office for consideration of approval for moves exceeding:

- (1) a gross weight of 132,000 pounds with the fee specified in G.S. 20-119(b) at least 10 working days prior to the anticipated date of movement; or
- (2) a width of 15' with documentation for variances at least 10 working days prior to the anticipated date of movement with the exception of a mobile/modular unit with maximum measurements of 13'6" high, 16' wide unit and a 3" gutter edge; a width of 16' 11" with the exception of house moves is required to be submitted with the fee specified in G.S. 20-119(b) with documentation for variances at least 10 working days prior to the anticipated date of movement; or
- (3) a height of 14 feet at least two working days prior to the anticipated date of movement. Upon completion of an engineering study for moves exceeding a gross weight of 132,000 pounds, a surety bond to cover potential damage to highways and bridge structures shall be required for overweight permits if the engineering study shows potential for damage

to highways and bridge structures along the particular route of the requested permit.

(c) The North Carolina licensed mobile/modular home retail dealer shall maintain records of all mobile/modular units moved by authority of an annual permit for a minimum of four years from the date of movement. The records shall be readily available for inspection and audit by officers of the Division of Motor Vehicles. Monthly reports shall be submitted by the dealer to the Central Permit Office on a form designed and furnished by the Department of Transportation. Failure to comply with any requirement may be grounds for denying, suspending, or revoking Manufacturer's License, Dealer's License, or both issued by the Division of Motor Vehicles as specified in Chapter 20 of the Motor Vehicle Law, Title 19A NCAC 03D.0219, or North Carolina Oversize/Overweight permit privileges.

(d) Officers of the Division of Motor Vehicles may perform on-site inspections of mobile/modular homes ready for shipment at the point of manufacture or at the dealer lot for compliance with G.S. 20, dealer and manufacturer regulations, permit regulations, and policy. Notification of violations shall be submitted by enforcement personnel to the Central Permit Office.

(e) The penalties provided in this Rule are in addition to the penalties provided for in G.S. 20.

(f) Permits may be declared void by the State Highway Administrator or his designee upon determination that such overdimension/overweight permit was being used in violation of the General Statutes of North Carolina, Permit Rules or restrictions stated on the permit.

(g) Permits may also be denied, revoked or declared invalid as stated in Rule .0633 of this Section.

History Note: Authority G.S. 20-119; 136-18(5); Eff. July 1, 1978; Amended Eff. November 1, 1993; October 1, 1991; Filed as a Temporary Rule Eff. October 1, 2000; Amended Eff. August 1, 2002.

19A NCAC 02D .0602 PERMITS-ISSUANCE AND FEES

(a) Permits may be issued for movements of loads which cannot be reasonably divided, dismantled or disassembled, or so loaded to meet legal requirements. Permits are issued on authorized forms with appropriate designation for qualifying moves on the most direct route of travel to the destination after consideration of vertical clearances, work zones, and other factors to ensure safe movement. A permit issued by the Department is not valid for travel over municipal streets (defined as streets or highways not maintained by the State of North Carolina).

(b) Single trip permits may include a return trip to origin if requested at the time of original issuance and the return trip can be made within the validation of such permit. No single trip permit request shall be issued for a time period to exceed 30 days. Annual permits (blanket) are valid 12 months from the effective date of the permit.

(c) The Department of Transportation shall collect a fee as specified in G.S. 20-119(b). Only cash, certified check, money order, company check, or credit card shall be accepted. No personal checks shall be accepted. The Department shall bill permittees with established credit accounts monthly for permits issued for the previous month.

History Note: Authority G.S. 20-119; 136-18(5); Eff. July 1, 1978; Amended Eff. December 29, 1993; October 1, 1991; April 1, 1984; April 11, 1980; Filed as a Temporary Rule Eff. October 1, 2000; Amended Eff. August 1, 2002.

TITLE 23 – DEPARTMENT OF COMMUNITY COLLEGES

23 NCAC 02C .0308 DRIVERS' ELIGIBILITY CERTIFICATE

(a) Local Boards of Trustees shall be responsible for the issuance of driving eligibility certificates, the timely reporting of dropouts and students unable to make progress toward graduation, and the provision of grievance procedures associated with the issuance of driving eligibility certificates. Local Boards of Trustees shall provide a program which meets the following requirements:

- (1) The president or the president's designee shall issue a driving eligibility certificate if it is determined that:
 - (A) The student seeking the certificate is currently enrolled in a basic skills program and is making progress toward obtaining a high school diploma or its equivalent. Making progress toward obtaining a high school diploma for a person enrolled in a community college basic skills program is defined as:
 - (i) Attending a basic skills class a minimum of sixty hours per month for a period of six consecutive months; and
 - (I) Demonstrating progress in GED at the end of each six month period by passing a minimum of two GED tests with a score of 40 or higher.
 - (II) Demonstrating progress in Adult High School at the end of each six month period by passing a minimum of two Adult High School units.
 - (III) Demonstrating progress in Adult Basic Education or English as a Second Language at the end of each six month period by one of the following: increase scores on each

- subsequent standardized test or make progress as documented by teacher assessment.
- (ii) If a student does not meet the criteria for making progress and attendance during any month, the president or the president's designee shall notify the Division of Motor Vehicles the following month that the student no longer meets the requirements for the driving eligibility certificate.
- (B) A substantial hardship would be placed on the person seeking the certificate or the person's family if the person does not receive the certificate. Examples of a substantial hardship include:
- (i) A parent's inability to drive due to sickness or other impairment and the student is the only person of driving age in the household.
- (ii) The student requires transportation to and from a job that is necessary to the welfare of his family and is unable by any other means to do so.
- (C) The person seeking the certificate cannot make progress toward obtaining a high school diploma or its equivalent. The president or the president's designee shall determine, along with input from other basic skills staff, if a student is unable to make progress toward obtaining a high school diploma or its equivalent.
- (2) The President or his designee shall not issue a driving eligibility certificate if it is determined that either after the first day of July before the school year which the student enrolled in the eighth grade or after the student's fourteenth birthday, whichever event occurred first, the student was subjected to disciplinary action as defined in this Subparagraph for any of the enumerated conduct as defined in this Subparagraph. Disciplinary action is defined as:
- (A) An expulsion;
- (B) Suspension for more than ten consecutive days; or
- (C) An assignment to an alternative educational setting for more than ten consecutive days, which resulted from any of the enumerated conduct. Enumerated conduct is defined as:
- (i) The possession or sale of an alcoholic beverage or an illegal controlled substance on school property.
- (ii) The possession or use on school property of a weapon or firearm that resulted in disciplinary action under G.S. 115C-391(d1), or that could have resulted in that disciplinary action if the conduct had occurred in a public school.
- (iii) The physical assault on a teacher or other school personnel on school property
- (3) A student who was ineligible for a certificate under Subparagraph (a)(2) of this Rule, is eligible for a certificate when the president or president's designee determines that the student has exhausted all administrative appeals connected to the disciplinary action and that one of the following conditions is met:
- (A) The conduct which resulted in the disciplinary action occurred before the student reached the age of 15, and the student is now at least 16 years old.
- (B) The conduct which resulted in the disciplinary action occurred before the student reached the age of 15, and at least one year has passed since the student exhausted all administrative appeals connected to the disciplinary action.
- (C) The student needs the certificate in order to drive to and from school, a drug or alcohol treatment counseling program, or a mental health treatment program, and no other transportation is available.
- (4) A student who was ineligible for a certificate under Subparagraph (a)(2) of this Rule may otherwise be eligible for a certificate if, after six months from the date of the ineligibility, the president or the president's designee determines that:
- (A) The student has displayed exemplary behavior; or
- (B) The ineligibility was based on a disciplinary action for the possession or sale of an alcoholic beverage or a controlled substance on school property and the president or the president's designee determines that the student has attended and successfully completed a drug or alcohol treatment program.
- (i) Exemplary behavior is defined as the student having

- (ii) no further incidents of misconduct where expulsion, suspension, or an assignment to an alternative educational setting is required.
- (ii) Attending and successfully completing a drug or alcohol treatment program is defined as a minimum of 12 hours of drug or alcohol treatment counseling or a mental health treatment program. In addition, the treatment counseling program shall have a strong parental involvement focus.

(b) Any person denied a driving eligibility certificate may appeal that decision through the college's student grievance procedure.

(c) The president or the president's designee shall notify the Division of Motor Vehicles when a student is no longer exhibiting exemplary behavior or attending and successfully completing a drug or alcohol treatment program as determined above, or when a student officially drops out of school. The president's designee shall be the Basic Skills Director.

- (1) The State Board shall provide to the Basic Skills Director a form for students to provide their written irrevocable consent for a community college to disclose to the Division of Motor Vehicles that the student no longer meets the conditions for a driving eligibility certificate under subparagraphs (a)(1) through (a)(4) of this Rule.
- (2) This form shall only identify the student, and under which Subsection of this Rule the student is no longer eligible. No other details or information concerning the student's school record shall be released pursuant to this request.

History Note: Authority G.S. 115D-5(a3); Eff. August 1, 2001.

23 NCAC 02D .0202 TUITION AND FEES FOR CURRICULUM PROGRAMS

(a) Tuition:

- (1) Student Residence Classification. The classification of students for tuition purposes shall be made pursuant to G.S. 115-D-39, 116-143.1, 116.43.3, and 116-143.5.
- (2) Tuition Rates In-State:
 - (A) A general and uniform tuition rate is established by the State Board as set by the Legislature for full-time curriculum students per semester or term for North Carolina residents.
 - (B) A North Carolina resident who is a part-time student shall pay a per credit hour rate for curriculum instruction, as established by the State Board, for such tuition in any

- (3) semester or term as set by the Legislature.
- (3) Learning Laboratory. No tuition fees charged.
- (4) Tuition Creditable Upon Transfer of Student. When a student has paid the required tuition at a college and is given permission to transfer to another college within the system during the academic semester for which the tuition was paid, the college from which the student transfers shall issue to him a statement certifying the amounts of tuition that have been paid, and the college to which he is transferring shall accept such certificate in lieu of requiring payment again. [Also, see 23 NCAC 2D .0323(b)(2) which provides information regarding reporting student hours in membership.]
- (5) Tuition Student Enrolled in More Than One College. Where a student desires to enroll for the same semester at two or more colleges of the system, the total amount of tuition and fees may be paid to the student's "home" college. "Home" college is defined as the college which the student initially registers for classes. The home college shall, in that case, assume responsibility for arranging with the other college or colleges for enrolling the student in appropriate classes without further charge. Such arrangement shall be made by exchange of letters between the colleges involved. Student membership hours for instruction received shall, in any event, be reported by the college in which the respective instruction occurred.
- (6) Tuition Rates Out-of-State:
 - (A) Any full-time curriculum student who is an out-of-state resident shall pay tuition fees as established by the State Board for each semester or term as set by the Legislature.
 - (B) An out-of-state resident who is a part-time student shall pay a per credit hour rate for curriculum instruction as established by the State Board as set by the Legislature.
- (7) Tuition Waivers:
 - (A) Individuals taking courses in the categories set forth in G.S. 115D-5(b) shall be exempt from tuition.
 - (B) College Staff Members. Full-time college staff members employed for a 9, 10, 11, or 12 month term may enroll in one curriculum or extension course per semester, as well as the summer term, in the system without payment of tuition or registration fee.
 - (C) Basic Law Enforcement Training Program (BLET) for law enforcement officers. All law enforcement officers employed by a municipal, county, state, or federal law

enforcement agency when taking courses in a state-mandated BLET training program, are exempt from tuition payment. Also, trainees shall be exempt from BLET class tuition if a letter of sponsorship from a state, county, or municipal law enforcement agency is on file at the college.

(D) Individuals meeting the criteria set forth in G.S. 115B-2 shall not be charged tuition.

(E) High school students taking courses pursuant to Paragraphs (c) (concurrent enrollment) and Paragraph (e) (cooperative high school programs) of 23 NCAC 2C .0305 of this chapter shall not be charged tuition.

(b) Pre-Enrollment Deposit. When a prospective student has made application for admission and has been accepted, the student may be required to pay an advance deposit up to a maximum of fifteen dollars (\$15.00). This advance payment is not refundable unless the class(es) fails to materialize. This advance payment shall be deposited to the State Treasurer and credited against the full tuition due from the student during the regular registration period.

(c) Late Enrollment Fee. A late enrollment fee up to five dollars (\$5.00) may be charged curriculum students registering after the specific closing date of registration, with such fees becoming state funds.

(d) Student Activity Fee. Colleges may establish a student activity fee which may include a parking fee or a scheduled vehicle registration fee for those students who require parking facilities. The maximum amount that may be charged for the student activity fee shall not exceed thirty-eight dollars (\$38.00) per student per fiscal year. Students may be assessed a parking fee, vehicle registration fee, or similar fee separate from the student activity fee; however, when such a fee is added to the student activity fee, the sum shall not exceed thirty-eight dollars (\$38.00) per student per fiscal year. Funds derived from collection of a student activity fee shall be accounted for and expended under standing procedures and regulations adopted by the local board of trustees. Any expenditure from the fund must directly benefit students.

(e) Tuition Refunds.

(1) A refund shall not be made except under the following circumstances:

(A) A 100 percent refund shall be made if the student officially withdraws prior to the first day of class(es) of the academic semester or term as noted in the college calendar. Also, a student is eligible for a 100 percent refund if the class in which the student is officially registered fails to "make" due to insufficient enrollment.

(B) A 75 percent refund shall be made if the student officially withdraws from the class(es) prior to or on the official 10 percent point of the semester.

(C) For classes beginning at times other than the first week (seven calendar days) of the semester a 100 percent refund shall be made if the student officially withdraws from the class prior to the first class meeting. A 75 percent refund shall be made if the student officially withdraws from the class prior to or on the 10 percent point of the class.

(D) A 100 percent refund shall be made if the student officially withdraws from a contact hour class prior to the first day of class of the academic semester or term or if the college cancels the class. A 75 percent refund shall be made if the student officially withdraws from a contact hour class on or before the tenth calendar day of the class.

(2) To comply with applicable federal regulations regarding refunds, federal regulations supersede the state refund regulations stated in this Rule.

(3) Where a student, having paid the required tuition for a semester or term, dies during that semester (prior to or on the last day of examinations of the college the student was attending), all tuition and fees for that semester or term may be refunded to the estate of the deceased.

(4) For a class(es) which the college collects receipts which are not required to be deposited into the State Treasury account, the college shall adopt local refund policies.

(f) Military Tuition Refund. - Upon request of the student, each college shall:

(1) Grant a full refund of tuition and fees to military reserve and national Guard personnel called to active duty or active duty personnel who have received temporary or permanent reassignments as a result of military operations then taking place outside the state of North Carolina that make it impossible for them to complete their course requirements; and

(2) Buy back textbooks through the colleges' bookstore operations to the extent possible. Colleges shall use distance learning technologies and other educational methodologies to help these students, under the guidance of faculty and administrative staff, complete their course requirements.

History Note: Filed as a Temporary Amendment Eff. November 1, 1993 for a period of 180 days or until the permanent rule becomes effective, whichever is sooner; Authority G.S. 115D-5; 115D-39; 116-143.1; P.L. 93-508; S.L. 1995, c. 625; Eff. February 1, 1976; Amended Eff. June 1, 1994; September 1, 1993; August 1, 1998; December 1, 1984;

APPROVED RULES

*Temporary Amendment Eff. June 1, 1997;
Amended Eff. August 1, 2002; July 1, 1998.*

RULES REVIEW COMMISSION

This Section contains the agenda for the next meeting of the Rules Review Commission on Thursday, June 21, 2001, 10:00 a.m. at 1307 Glenwood Avenue, Assembly 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 by Friday, June 15, 2001 at 5:00 p.m. Specific instructions and addresses may be obtained from the Rules Review Commission at 919-733-2721. Anyone wishing to address the Commission should notify the RRC staff and the agency at least 24 hours prior to the meeting.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate
Paul Powell - Chairman
Robert Saunders
Laura Devan
Jim Funderburke
David Twiddy

Appointed by House
John Arrowood - 1st Vice Chairman
Jennie J. Hayman 2nd Vice Chairman
Walter Futch
Jeffrey P. Gray
George Robinson

RULES REVIEW COMMISSION MEETING DATES

June 21, 2001
July 19, 2001

August 16, 2001
September 20, 2001

RULES REVIEW COMMISSION Log of Filings (Log #176) April 23, 2001 through May 21, 2001

DHHS

Respite Care	10	NCAC 42B .2407	Adopt
Respite Care	10	NCAC 42C .2406	Adopt
Respite Care	10	NCAC 42D .1832	Adopt

DHHS / COMMISSION FOR MH/DD/SAS

Supplying of Methadone in Treatment Programs by RN	10	NCAC 45G .0306	Amend
Schedule II Drugs	10	NCAC 45H .0203	Amend
Schedule III Drugs	10	NCAC 45H .0204	Amend

TRANSPORTATION, DEPARTMENT OF / DIVISION OF HIGHWAYS

Permits-Weight, Dimensions, and Limitations	19	NCAC 02D .0607	Amend
Participation in the Program	19	NCAC 02D .1003	Amend

STATE BOARDS / NC BOARD OF DIETETICS/NUTRITION

Definitions	21	NCAC 17 .0101	Adopt
Requirement of License	21	NCAC 17 .0102	Adopt
Requirement of License	21	NCAC 17 .0103	Adopt
Applications	21	NCAC 17 .0104	Adopt
Examination for Licensure	21	NCAC 17 .0105	Adopt
Provisional License	21	NCAC 17 .0107	Adopt
Disapproved Application	21	NCAC 17 .0108	Adopt
Issuance and Renewal of License	21	NCAC 17 .0109	Adopt
Licensure Certificate	21	NCAC 17 .0110	Adopt
Inactive Status	21	NCAC 17 .0111	Adopt
Fees	21	NCAC 17 .0113	Adopt
Code of Ethics for Practice and Conduct	21	NCAC 17 .0114	Adopt
Exemptions	21	NCAC 17 .0115	Adopt
Violations, Complaints, Subsequent Board Action	21	NCAC 17 .0116	Adopt
Definitions	21	NCAC 17 .0301	Adopt
Definitions	21	NCAC 17 .0302	Adopt
Supervision	21	NCAC 17 .0303	Adopt
Records and Reports	21	NCAC 17 .0304	Adopt
Individuals Aiding Practice of Dietetics/Nutrition	21	NCAC 17 .0401	Adopt
Individuals Providing Nutrition Information	21	NCAC 17 .0402	Adopt

STATE BOARDS / N C BOARD OF NURSING

RULES REVIEW COMMISSION

Listing and Renewal	21 NCAC 36 .0404	Amend
Approval of Nurse Aide Education Programs	21 NCAC 36 .0405	Amend

AGENDA
RULES REVIEW COMMISSION
June 21, 2001

- I. Call to Order and Opening Remarks
- II. Review of minutes of last meeting
- III. Follow Up Matters
 - A. Department of Agriculture Structural Pest Control Committee– 2 NCAC 34 .0502: Objection on 12/21/00 (DeLuca)
 - B. DHHS/Social Services Commission - 10 NCAC 41S All Rules: Extend period of review; objection to .0612 and .0704 on 04/19/01 (DeLuca)
 - C. DHHS/Social Services Commission – 10 NCAC 41T .0106; .0201: Extend period of review on 04/19/01 (DeLuca)
 - D. DENR-Soil and Water Conservation Commission - 15A NCAC 6G .0101 and .0102: Objection on 05/17/01 (DeLuca)
 - E. DENR-Soil and Water Conservation Commission – 15A NCAC 6G .0103 - .0106 Extend period of review on 05/17/01 (DeLuca)
 - F. NC Wildlife Resources Commission - 15A NCAC 10B .0203: Objection on 05/17/01 (Bryan)
 - G. .NC Wildlife Resources Commission - 15A NCAC 10C .02011: Objection on 05/17/01 (Bryan)
 - H. .NC Wildlife Resources Commission - 15A NCAC 10H .0301: Extend period of review on 05/17/01 (Bryan)
 - I. Commission for Health Services – 15A NCAC 18A .3307; .3313; .3319; .3323; .3324; .3327; .3330; .3331; .3334: Objection on 04/19/01 (Bryan)
- IV. Review of rules (Log Report #176)
- V. Commission Business
- VI. Next meeting: Thursday, July 19, 2001

CONTESTED CASE DECISIONS

This Section contains the full text of some of the more significant Administrative Law Judge decisions along with an index to all recent contested cases decisions which are filed under North Carolina's Administrative Procedure Act. Copies of the decisions listed in the index and not published are available upon request for a minimal charge by contacting the Office of Administrative Hearings, (919) 733-2698. Also, the Contested Case Decisions are available on the Internet at the following address: <http://www.ncoah.com/hearings>.

OFFICE OF ADMINISTRATIVE HEARINGS

*Chief Administrative Law Judge
JULIAN MANN, III*

*Senior Administrative Law Judge
FRED G. MORRISON JR.*

ADMINISTRATIVE LAW JUDGES

*Sammie Chess Jr.
Beecher R. Gray
Melissa Owens Lassiter*

*James L. Conner, II
Beryl E. Wade
A.B. (Butch) Elkins*

<u>UAGENCY</u>	<u>CASE NUMBER</u>	<u>ALJ</u>	<u>DATE OF DECISION</u>	<u>PUBLISHED DECISION REGISTER CITATION</u>
ALCOHOL BEVERAGE CONTROL COMMISSION				
Dano's, Inc. v. NC ABC Commission	96 ABC 0250	Gray	03/16/01	
NC ABC Commission v Food Lion, Inc. T/A Food Lion Store 540	99 ABC 0366	Mann	05/30/00	
NC ABC Commission v.DCL., Inc. T/A Cheap Shot O'Malleys	99 ABC 1341	Morrison	06/15/00	15:03 NCR 340
Daniel W. Shelton T/A Shelton Broers v.NC ABC Commission	99 ABC 1641	Conner	08/31/00	15:08 NCR 879
NC ABC Commission v. Harris Teeter, Inc. T/A Harris Teeter 142	99 ABC 1746	Lassiter	05/01/00	
NC ABC Commission v. Headlights, Inc. T/A Headlights	00 ABC 0302	Gray	08/21/00	
Timothy Lee Hopper v. NC ABC Commission	00 ABC 0326	Lassiter	10/20/00	
NC ABC Commission v. A-1 Stop Food Store, Inc., T/A One Stop Grocery	00 ABC 0410	Gray	01/17/01	
Steven Wilson McCrae v. NC ABC Commission	00 ABC 0598	Wade	08/23/00	
Xavier DeShawn Bradley v. NC ABC Commission	00 ABC 0619	Mann	08/08/00	
NC Beverage Control Commission v. Rhonda Davis Lemons, Ind. T/A	00 ABC 0965	Mann	02/05/01	
NC ABC Commission v. Kevin Scott Heath, Robinhood Grille, LLC t/a Robinhood Grille	00 ABC 1026	Gray	12/19/00	15:14 NCR 1390
NC ABC Commission v. Alliance Corp of Fayetteville, T/A Pavillion	00 ABC 1439	Anderson	04/05/01	
BOARD OF MORTUARY SCIENCE				
NC Board of Mortuary Science v. R.L. Sanders Funeral Home, Hugh Sanders and Demetrice Brewington	99 BMS 1180	Lassiter	11/27/00	
NC Board of Mortuary Science v. John Charles McNeill, McNeill Funerals, Inc.	00 BMS 0564	Wade	10/13/00	
CRIME CONTROL AND PUBLIC SAFETY				
Terry Ramey D/B/A/Ramey's Wrecker Service v. NC Dept. of of Crime Control & Public Safety, NC State Highway Patrol	99 CPS 1160	Morrison	01/26/01	15:17 NCR 1594
Mamie Lee French v. N.C. Crime Victims Compensation Commission	99 CPS 1646	Conner	04/27/00	15:01 NCR 38
Pearl J. Conner v. Victim & Justice Services, Dept of Crime Control & Public Safety	00 CPS 0903	Lassiter	11/09/00	
Kenneth E. Brooks v. NC Crime Victims Compensation Commission	00 CPS 1048	Lassiter	12/21/00	
Kathy Oates Parzygnat v. NC Crime Victims Compensation Commission	00 CPS 1054	Conner	01/29/01	
Dowu Thomas v. NC Crime Victims Compensation Commission	00 CPS 1090	Mann	01/17/01	
Derrick Davis v. NC Crime Victims Compensation Commission	00 CPS 1352	Gray	02/01/01	
Lisa D. Richmond (Lee) v. NC Crime Victims Compensation Commission	00 CPS 1489	Mann	03/29/01	
Clifton Bullock v. NC Crime Victims Compensation Commission	00 CPS 1522	Gray	05/22/01	
Juanita Brown v. NC Crime Victims Compensation Commission	00 CPS 2196	Gray	05/21/01	
HEALTH AND HUMAN SERVICES				
William M. Gardin v. Department of Health & Human Services	98 CRA 1054	Lassiter	06/20/00	
Frederica LaShon Smith v. Department of Health & Human Services	00 CRA 0278 ¹	Wade	06/30/00	
Charles Cecil Douglas v. Department of Health & Human Services	00 CRA 0648	Wade	08/23/00	
Anthony Clement v. Department of Health & Human Services	00 CRA 1501	Morrison	03/29/01	
Tyrone Banks v. Department of Health & Human Services	00 CRA 1759	Gray	01/16/01	
Terry Weathers v. Department of Health & Human Services	00 CRA 1769	Conner	02/14/01	
Fredrick Gilmore v. Department of Health & Human Services	00 CRA 2125 ¹⁰	Morrison	03/21/01	
Marshall Johnson Jr v. Department of Health & Human Services	01 CRA 0337	Lassiter	05/09/01	
Develynne Camack v. Department of Health & Human Services	01 CRA 0453	Morrison	05/23/01	

CONTESTED CASE DECISIONS

Child Support Enforcement Section

Steven M. Helms v. Department of Health & Human Services	98 CSE 1634	Gray	07/13/00
David R. North v. Department of Health & Human Services	99 CSE 0408	Chess	10/25/00
Michael A. Cameron v. Department of Health & Human Services	99 CSE 0424	Mann	09/25/00
Charles Jr. Lotharp v. Department of Health & Human Services	99 CSE 0626	Lassiter	02/09/01
Marcus James Ward v. Department of Health & Human Services	99 CSE 0784	Wade	09/29/00
Omer D. & Marinda A. Potter v. Department of Health & Human Services	99 CSE 0798	Chess	10/25/00
Anthony R. McRae Sr. v. Department of Health & Human Services	99 CSE 0812	Morrison	12/20/00
Richard Cook v. Department of Health & Human Services	99 CSE 0873 ⁴	Chess	10/27/00
Richard C. Mack v. Department of Health & Human Services	99 CSE 1244	Mann	08/16/00
John Ray McCarroll v. Department of Health & Human Services	99 CSE 1272	Lassiter	08/16/00
Loany Centeno v. Department of Health & Human Services	99 CSE 1325	Chess	06/29/00
Craig D. McLeod v. Department of Health & Human Services	99 CSE 1369	Lassiter	08/29/00
Jermaine L. Covington v. Department of Health & Human Services	99 CSE 1408	Lassiter	11/01/00
Joseph E. Toothman v. Department of Health & Human Services	99 CSE 1428	Gray	09/27/00
Kenneth W. Freeman, Jr. v. Department of Health & Human Services	99 CSE 1455	Wade	10/31/00
Darryl Glenn Cannady v. Department of Health & Human Services	99 CSE 1457	Gray	07/27/00
Michael A. Whitlow v. Department of Health & Human Services	99 CSE 1482	Gray	07/11/00
Susan Marie Grier v. Department of Health & Human Services	99 CSE 1484	Mann	06/02/00
David R. McDonald v. Department of Health & Human Services	99 CSE 1486	Lassiter	10/02/00
Larry N. McLain v. Department of Health & Human Services	99 CSE 1488	Lassiter	08/16/00
Philip J. English v. Department of Health & Human Services	99 CSE 1489	Wade	05/02/01
Randy Gillespie v. Department of Health & Human Services	99 CSE 1491	Gray	08/22/00
Tony R. Wood v. Department of Health & Human Services	99 CSE 1501	Gray	01/12/01
Samuel E. Massenberg, Jr. v. Department of Health & Human Services	99 CSE 1513	Morrison	09/27/00
Nina Maier v. Department of Health & Human Services	99 CSE 1541	Gray	07/28/00
Edward J. Lucero v. Department of Health & Human Services	99 CSE 1542	Mann	10/31/00
Ronald E. Davis, Jr. v. Department of Health & Human Services	99 CSE 1554	Gray	07/28/00
Almiron J. Deis v. Department of Health & Human Services	99 CSE 1589	Mann	10/31/00
Kenneth Jones v. Department of Health & Human Services	99 CSE 1590	Gray	08/22/00
Anthony C. Lambert v. Department of Health & Human Services	99 CSE 1699	Gray	06/05/00
Richard Cook v. Department of Health & Human Services	00 CSE 0053 ⁴	Chess	10/27/00
Wendy Gosnell v. Department of Health & Human Services	00 CSE 0073	Mann	06/14/00
Matthew Gibson v. Department of Health & Human Services	00 CSE 0076	Mann	10/31/00
Dwight Dion Hallman v. Department of Health & Human Services	00 CSE 0098	Mann	06/14/00
Davis, Donald George v. Department of Health & Human Services	00 CSE 0107	Wade	06/08/00
Davis, Donald George v. Department of Health & Human Services	00 CSE 0108	Wade	06/08/00
Todd A. Flanders v. Department of Health & Human Services	00 CSE 0152	Mann	03/13/01
Thomas Jackson v. Department of Health & Human Services	00 CSE 0165	Chess	07/27/00
Albertus Shaw III v. Department of Health & Human Services	00 CSE 0176	Gray	06/05/00
Linwood Morris v. Department of Health & Human Services	00 CSE 0178	Mann	06/14/00
John H. Jones v. Department of Health & Human Services	00 CSE 0181	Morrison	08/25/00
Eddie J. Sykes v. Department of Health & Human Services	00 CSE 0192	Lassiter	06/13/00
Andrew S. McKenzie v. Department of Health & Human Services	00 CSE 0193	Wade	06/08/00
Darryal K. Anderson v. Department of Health & Human Services	00 CSE 0200	Gray	06/09/00
John V. Wiberg, Jr. v. Department of Health & Human Services	00 CSE 0211	Mann	06/23/00
William Jerry Gibbs v. Department of Health & Human Services	00 CSE 0213	Gray	06/22/00
Gregory L. Pinkett v. Department of Health & Human Services	00 CSE 0214	Wade	10/31/00
Joseph D. Turnage v. Department of Health & Human Services	00 CSE 0220	Morrison	11/16/00
Izell Anthony Twigg v. Department of Health & Human Services	00 CSE 0226	Gray	06/07/00
Don Fitzgerald Harris v. Department of Health & Human Services	00 CSE 0230	Mann	08/01/00
Benjamin E. Walker v. Department of Health & Human Services	00 CSE 0232	Morrison	07/31/00
Randy Keith Beddard v. Department of Health & Human Services	00 CSE 0236	Lassiter	06/20/00
Delinda Guthrie Montague v. Department of Health & Human Services	00 CSE 0237	Mann	08/01/00
Lavarr Sharpe v. Department of Health & Human Services	00 CSE 0240	Mann	06/26/00
Timothy Holtzclaw v. Department of Health & Human Services	00 CSE 0245	Gray	09/14/00
Melton Tillery v. Department of Health & Human Services	00 CSE 0246	Lassiter	06/20/00
Darla Judkin v. Department of Health & Human Services	00 CSE 0254	Chess	08/23/00
Robert L. Coffey v. Department of Health & Human Services	00 CSE 0255 ¹²	Gray	03/30/01
Christopher Mark Boyette v. Department of Health & Human Services	00 CSE 0262	Lassiter	11/01/00
Ronald L. Long, Jr. v. Department of Health & Human Services	00 CSE 0265	Mann	08/31/00
David Lee Jones v. Department of Health & Human Services	00 CSE 0269	Conner	09/27/00
Walter Witherspoon v. Department of Health & Human Services	00 CSE 0268	Chess	06/19/00
Frederica LaShon Smith v. Department of Health & Human Services	00 CSE 0279	Wade	06/08/00
John Wayne Chambers v. Department of Health & Human Services	00 CSE 0280	Mann	06/30/00
George Fuller v. Department of Health & Human Services	00 CSE 0283	Morrison	06/28/00
Robert G. Wilson v. Department of Health & Human Services	00 CSE 0285	Lassiter	05/25/00
Gary Frank Ramsey v. Department of Health & Human Services	00 CSE 0292	Mann	06/29/00
Pierce Foster Williams, Jr., v. Department of Health & Human Services	00 CSE 0297	Conner	09/26/00
Shylatron Copeland v. Department of Health & Human Services	00 CSE 0316	Mann	06/26/00
Isaac L. McCoy v. Department of Health & Human Services	00 CSE 0324	Lassiter	06/29/00
Robert Boening v. Department of Health & Human Services	00 CSE 0341	Mann	06/26/00
Joseph Patrick Santana v. Department of Health & Human Services	00 CSE 0344	Morrison	06/07/00
Hilton R. Shaw v. Department of Health & Human Services	00 CSE 0346	Lassiter	07/07/00
Glennie Mae Jones v. Department of Health & Human Services	00 CSE 0349	Mann	10/30/00
Anthony B. Bryant v. Department of Health & Human Services	00 CSE 0351	Wade	07/19/00
Michael Shelton DeBerry v. Department of Health & Human Services	00 CSE 0353	Gray	06/22/00
Leroy L. Alford v. Department of Health & Human Services	00 CSE 0354	Mann	06/26/00

CONTESTED CASE DECISIONS

Michael A. Tarach v. Department of Health & Human Services	00 CSE 0357	Morrison	07/26/00
Jeffrey T. Daye v. Department of Health & Human Services	00 CSE 0369	Lassiter	07/07/00
Don Wesley King v. Department of Health & Human Services	00 CSE 0381	Mann	04/12/01
Robert L. Coffey v. Department of Health & Human Services	00 CSE 0385 ¹²	Gray	03/30/01
Michael Powell v. Department of Health & Human Services	00 CSE 0389	Conner	07/27/00
Jerry M. Thurmond v. Department of Health & Human Services	00 CSE 0390	Wade	06/30/00
Donald E. Church v. Department of Health & Human Services	00 CSE 0394	Gray	07/11/00
Ricky Barrett v. Department of Health & Human Services	00 CSE 0415	Mann	07/17/00
Kenneth Ray Smith v. Department of Health & Human Services	00 CSE 0416	Morrison	05/31/00
Juan M. Acosta v. Department of Health & Human Services	00 CSE 0417	Lassiter	06/24/00
Ronald T. Palmer v. Department of Health & Human Services	00 CSE 0422	Mann	10/31/00
Stanley Ray Allison v. Department of Health & Human Services	00 CSE 0425	Gray	07/11/00
James T. Graham v. Department of Health & Human Services	00 CSE 0426	Wade	06/08/00
Rufus Mitchell Simmons, Jr. v. Department of Health & Human Services	00 CSE 0431	Gray	06/27/00
James Howard Alexander v. Department of Health & Human Services	00 CSE 0433	Mann	06/26/00
Steve A. Hayward v. Department of Health & Human Services	00 CSE 0435	Morrison	07/14/00
Rodney C LeBlanc v. Department of Health & Human Services	00 CSE 0444	Mann	03/28/01
Ronnie N. Morgan v. Department of Health & Human Services	00 CSE 0446	Gray	01/17/01
Leonard Gabriel v. Department of Health & Human Services	00 CSE 0450	Mann	06/29/00
Patrick L. Moore v. Department of Health & Human Services	00 CSE 0463	Wade	06/19/00
Gregory Lee Bell v. Department of Health & Human Services	00 CSE 0464	Connor	06/29/00
Tamika B. Jenkins v. Department of Health & Human Services	00 CSE 0466	Chess	06/19/00
William R. Parker v. Department of Health & Human Services	00 CSE 0467	Gray	06/26/00
Vernon Ledbetter v. Department of Health & Human Services	00 CSE 0468	Mann	06/14/00
Garry L. Studer v. Department of Health & Human Services	00 CSE 0471	Lassiter	07/31/00
Johnnie Green v. Department of Health & Human Services	00 CSE 0472	Wade	08/09/00
Roger Shular v. Department of Health & Human Services	00 CSE 0478	Mann	07/26/00
William A. Toney v. Department of Health & Human Services	00 CSE 0480	Wade	06/19/00
Larry O. Anthony v. Department of Health & Human Services	00 CSE 0484	Connor	06/26/00
Johnny Daye v. Department of Health & Human Services	00 CSE 0485	Gray	06/22/00
Jose A. Seijo v. Department of Health & Human Services	00 CSE 0491	Morrison	06/26/00
Randy Hammonds v. Department of Health & Human Services	00 CSE 0495	Lassiter	06/20/00
Shawn F. Moser Sr. v. Department of Health & Human Services	00 CSE 0511	Conner	08/14/00
Timothy Franklin Clowney v. Department of Health & Human Services	00 CSE 0512	Wade	08/09/00
Clarence Evans v. Department of Health & Human Services	00 CSE 0513 ²	Conner	07/28/00
Clarence Evans v. Department of Health & Human Services	00 CSE 0545 ²	Conner	07/28/00
Rickey L. Gulledge v. Department of Health & Human Services	00 CSE 0558	Mann	06/26/00
Damon Barnes Jr. v. Department of Health & Human Services	00 CSE 0567	Lassiter	08/16/00
William A. Bell v. Department of Health & Human Services	00 CSE 0589	Gray	08/21/00
Robert Lee Thompson v. Department of Health & Human Services	00 CSE 0592	Wade	08/10/00
William T. Hutto v. Department of Health & Human Services	00 CSE 0594	Conner	09/07/00
Julian Orlando Fernandez v. Department of Health & Human Services	00 CSE 0599	Gray	08/21/00
Bryan Keith Wilkerson v. Department of Health & Human Services	00 CSE 0607	Morrison	08/01/00
Rodney A. Hopper v. Department of Health & Human Services	00 CSE 0613	Wade	08/23/00
Tabitha Angley v. Department of Health & Human Services	00 CSE 0614	Conner	07/27/00
Douglas M. Coker v. Department of Health & Human Services	00 CSE 0622	Chess	07/11/00
Mark Christopher Smith v. Department of Health & Human Services	00 CSE 0627	Gray	08/21/00
Rhonda Styers v. Department of Health & Human Services	00 CSE 0639	Mann	10/30/00
Terrence L. Holder v. Department of Health & Human Services	00 CSE 0640	Morrison	08/18/00
Anthony L. Reid v. Department of Health & Human Services	00 CSE 0647	Lassiter	01/16/01
Mikal M. Mua'zzin v. Department of Health & Human Services	00 CSE 0651	Conner	08/28/00
Jose' D. Rivas v. Department of Health & Human Services	00 CSE 0658	Chess	08/07/00
Benny G. Bowen v. Department of Health & Human Services	00 CSE 0666	Mann	12/11/00
Valerie A. Simpson v. Department of Health & Human Services	00 CSE 0673	Morrison	07/07/00
James H. Hopper, Jr. v. Department of Health & Human Services	00 CSE 0677	Lassiter	08/29/00
Joseph I. Woodcock v. Department of Health & Human Services	00 CSE 0684	Lassiter	07/07/00
Kenneth R. Harker v. Department of Health & Human Services	00 CSE 0686	Wade	09/11/00
Justine Roberts v. Department of Health & Human Services	00 CSE 0694	Conner	08/28/00
Dana E. Grice v. Department of Health & Human Services	00 CSE 0709	Morrison	09/08/00
Alfred R. Swain v. Department of Health & Human Services	00 CSE 0718	Mann	06/28/00
Tyrone K. Anthony v. Department of Health & Human Services	00 CSE 0741	Wade	10/31/00
James C. Martin, Jr. v. Department of Health & Human Services	00 CSE 0751	Conner	08/30/00
Wade A. Burgess v. Department of Health & Human Services	00 CSE 0757	Gray	08/22/00
Donald Daniel Harmon v. Department of Health & Human Services	00 CSE 0758	Mann	10/24/00
Parnell Dougloss Sparks v. Department of Health & Human Services	00 CSE 0761	Morrison	06/06/00
Kevin S. Tate v. Department of Health & Human Services	00 CSE 0764	Lassiter	09/11/00
Jeffrey Ottis Hairr v. Department of Health & Human Services	00 CSE 0766	Mann	07/17/00
Ricky A. Phillips v. Department of Health & Human Services	00 CSE 0777	Morrison	08/01/00
Catherine A. Odom v. Department of Health & Human Services	00 CSE 0792	Mann	08/31/00
George Franklin Anderson v. Department of Health & Human Services	00 CSE 0793	Morrison	08/09/00
Raymond Thomas Carpenter, Jr. v. Department of Health & Human Svcs	00 CSE 0810	Mann	09/25/00
Darrell Johnson v. Department of Health & Human Services	00 CSE 0811	Wade	09/29/00
Ronald Owen Goodwin v. Department of Health & Human Services	00 CSE 0831	Chess	09/07/00
Jean M. Brown v. Department of Health & Human Services	00 CSE 0848	Wade	08/10/00
Richard B. Malloy v. Department of Health & Human Services	00 CSE 0849	Wade	10/02/00
Ronald R. Lemmons v. Department of Health & Human Services	00 CSE 0865	Gray	08/21/00
Gregory C. Tweed v. Department of Health & Human Services	00 CSE 0876	Conner	01/25/01
St. Clair Staley v. Department of Health & Human Services	00 CSE 0890 ³	Conner	10/06/00
Kenneth Duncan v. Department of Health & Human Services	00 CSE 0896	Gray	09/27/00
Kelvin Hardesty v. Department of Health & Human Services	00 CSE 0901	Lassiter	10/02/00
Michael Anthony Wright v. Department of Health & Human Services	00 CSE 0922	Lassiter	10/17/00

CONTESTED CASE DECISIONS

Cyrus V. Perry v. Department of Health & Human Services	00 CSE 0924	Gray	09/29/00
Jamey Johnson v. Department of Health & Human Services	00 CSE 0925	Wade	10/10/00
Marvin A. Smith v. Department of Health & Human Services	00 CSE 0932	Conner	09/21/00
Chris Michael Moore v. Department of Health & Human Services	00 CSE 0945	Gray	10/17/00
James C. Boyce v. Department of Health & Human Services	00 CSE 0946	Wade	12/01/00
Timothy Wayne McWilliams v. Department of Health & Human Services	00 CSE 0947	Chess	05/02/01
Matthew Russell Schmidt v. Department of Health & Human Services	00 CSE 0963	Morrison	10/04/00
Keith Stephenson v. Department of Health & Human Services	00 CSE 0979	Chess	10/25/00
Walter R. Spencer, Jr. v. Department of Health & Human Services	00 CSE 1010	Morrison	10/27/00
Keith D. Meredith v. Department of Health & Human Services	00 CSE 1011	Morrison	09/19/00
Billy Joe Davis v. Department of Health & Human Services	00 CSE 1012	Lassiter	09/08/00
Darwin Dean Graves v. Department of Health & Human Services	00 CSE 1014	Conner	11/28/00
Norman G. Mitchell v. Department of Health & Human Services	00 CSE 1036	Chess	12/18/00
Mary A. Hines v. Department of Health & Human Services	00 CSE 1047	Gray	10/20/00
St. Clair Staley v. Department of Health & Human Services	00 CSE 1069 ³	Conner	10/06/00
Nancy Moore v. Department of Health & Human Services	00 CSE 1081	Lassiter	11/16/00
Carl V. Greggs, Sr. v. Department of Health & Human Services	00 CSE 1082	Wade	11/16/00
Chester L. Jenkins v. Department of Health & Human Services	00 CSE 1089	Chess	12/13/00
Tacha Hyatt-Crowder v. Department of Health & Human Services	00 CSE 1098	Gray	11/07/00
Stan Valentine v. Department of Health & Human Services	00 CSE 1100	Morrison	11/16/00
Larry D Houston v. Department of Health & Human Services	00 CSE 1155	Gray	02/27/01
Carlos Eugene Jacobs v. Department of Health & Human Services	00 CSE 1259	Mann	11/30/00
Norman Bell v. Department of Health & Human Services	00 CSE 1268	Morrison	11/28/00
Travis Armstrong v. Department of Health & Human Services	00 CSE 1283	Lassiter	02/22/01
Donald Curtin Weatherford v. Department of Health & Human Services	00 CSE 1345	Chess	04/06/01
Daniel J. Sandford v. Department of Health & Human Services	00 CSE 1350	Wade	02/13/01
Victor Ferguson v. Department of Health & Human Services	00 CSE 1396	Mann	06/26/00
Tony E. Plyler v. Department of Health & Human Services	00 CSE 1447	Wade	01/12/01
Terry Isom v. Department of Health & Human Services	00 CSE 1463	Morrison	03/14/01
Teresa A. Ingraham v. Department of Health & Human Services	00 CSE 1464	Chess	12/29/00
Tommy William Carter v. Department of Health & Human Services	00 CSE 1485	Gray	01/31/01
Michael Hudson v. Department of Health & Human Services	00 CSE 1493	Wade	02/02/01
Robert M. Murray v. Department of Health & Human Services	00 CSE 1507	Lassiter	02/09/01
Misha C Mfum v. Department of Health & Human Services	00 CSE 1509	Wade	02/12/01
Kevin R. McCray v. Department of Health & Human Services	00 CSE 1525	Chess	01/30/01
Keith Everett Fick v. Department of Health & Human Services	00 CSE 1531	Lassiter	02/28/01
Jimmy Moore v. Department of Health & Human Services	00 CSE 1535	Conner	02/14/01
Stan Matthire v. Department of Health & Human Services	00 CSE 1536	Chess	01/30/01
Richard McC Carson v. Department of Health & Human Services	00 CSE 1543	Mann	01/03/01
Calvin G. Carter v. Department of Health & Human Services	00 CSE 1546	Lassiter	02/09/01
Michael J Artis v. Department of Health & Human Services	00 CSE 1549	Morrison	05/23/01
Jesse T Jefferson III v. Department of Health & Human Services	00 CSE 1553	Conner	03/14/01
Mark Andrew Cohn v. Department of Health & Human Services	00 CSE 1560	Gray	02/09/01
Savoy L. Miler v. Department of Health & Human Services	00 CSE 1571	Lassiter	01/31/01
Elmer L. Mosley v. Department of Health & Human Services	00 CSE 1581	Wade	02/02/01
David E. Allen v. Department of Health & Human Services	00 CSE 1589	Lassiter	02/09/01
David W Morris v. Department of Health & Human Services	00 CSE 1591	Wade	02/13/01
Jonathan Gregg Holland v. Department of Health & Human Services	00 CSE 1592	Conner	02/14/01
David Bass Jr v. Department of Health & Human Services	00 CSE 1595	Mann	02/13/01
Clyde Michael Trout v. Department of Health & Human Services	00 CSE 1596	Morrison	01/03/01
Sharon S. Godwin v. Department of Health & Human Services	00 CSE 1598	Morrison	02/09/01
Vincent Ackerman v. Department of Health & Human Services	00 CSE 1599	Wade	02/13/01
Michéal King v. Department of Health & Human Services	00 CSE 1600	Conner	02/22/01
Baron H Finlayson v. Department of Health & Human Services	00 CSE 1607	Mann	05/18/01
Johnny Drakakides v. Department of Health & Human Services	00 CSE 1608	Morrison	02/28/01
Phyllis A King v. Department of Health & Human Services	00 CSE 1609	Lassiter	02/20/01
Steven M Fletcher v. Department of Health & Human Services	00 CSE 1618	Conner	05/07/01
Bonita Ann Wilson v. Department of Health & Human Services	00 CSE 1619	Chess	02/27/01
Bernie Mayr Jr v. Department of Health & Human Services	00 CSE 1622	Morrison	01/31/01
Stephen N Powers v. Department of Health & Human Services	00 CSE 1623	Lassiter	02/20/01
Kenneth B Thomas v. Department of Health & Human Services	00 CSE 1624	Mann	02/21/01
Jeffrey Pullum v. Department of Health & Human Services	00 CSE 1625	Mann	03/30/01
Reginald Sanders v. Department of Health & Human Services	00 CSE 1626	Wade	02/20/01
Cleveland J Johnson v. Department of Health & Human Services	00 CSE 1628	Chess	02/27/01
Mark D Kane v. Department of Health & Human Services	00 CSE 1634	Morrison	03/13/01
Charles M Edwards v. Department of Health & Human Services	00 CSE 1635	Lassiter	02/20/01
Samuel E Ray v. Department of Health & Human Services	00 CSE 1636	Gray	03/22/01
Stephen Hiles v. Department of Health & Human Services	00 CSE 1638	Conner	02/22/01
Richard L Hannon v. Department of Health & Human Services	00 CSE 1639	Chess	03/22/01
Ricky L McCartney v. Department of Health & Human Services	00 CSE 1641	Wade	03/05/01
Timothy F Fulbright v. Department of Health & Human Services	00 CSE 1647	Morrison	02/20/01
David E Evans v. Department of Health & Human Services	00 CSE 1648	Lassiter	02/20/01
James David Johnson Jr v. Department of Health & Human Services	00 CSE 1650	Wade	02/20/01
Dale F Green v. Department of Health & Human Services	00 CSE 1651	Conner	03/14/01
Michael Dewayne Hester v. Department of Health & Human Services	00 CSE 1653	Gray	02/20/01
Mark A Pekuri v. Department of Health & Human Services	00 CSE 1658	Lassiter	02/28/01
Ronny S Marth v. Department of Health & Human Services	00 CSE 1661	Conner	03/22/01
Curtis B Blakney v. Department of Health & Human Services	00 CSE 1670	Gray	02/20/01
Richard Bourbon Jr. v. Department of Health & Human Services	00 CSE 1674	Lassiter	03/12/01
James M McCoy v. Department of Health & Human Services	00 CSE 1678	Wade	02/20/01
Michael Wilder Sr v. Department of Health & Human Services	00 CSE 1677	Conner	03/14/01

CONTESTED CASE DECISIONS

Carl R Cooper v. Department of Health & Human Services	00 CSE 1682	Lassiter	02/27/01
James Scott Lee v. Department of Health & Human Services	00 CSE 1688	Conner	02/15/01
Osmer Marshall Harris v. Department of Health & Human Services	00 CSE 1692	Gray	03/30/01
Robert E Peterson Jr. v. Department of Health & Human Services	00 CSE 1696	Lassiter	02/27/01
William A Caudle Jr v. Department of Health & Human Services	00 CSE 1699	Conner	03/14/01
Karen R. McLean v. Department of Health & Human Services	00 CSE 1707	Gray	01/12/01
Horace Thompson King Iv v. Department of Health & Human Services	00 CSE 1708	Mann	04/12/01
Jonathan B Frazier v. Department of Health & Human Services	00 CSE 1715	Gray	02/27/01
Daniel L. Phillips v. Department of Health & Human Services	00 CSE 1717	Morrison	01/31/01
Mauricio Lopez-Granados v. Department of Health & Human Services	00 CSE 1729	Gray	02/06/01
Emar Ifediora v. Department of Health & Human Services	00 CSE 1731	Morrison	02/27/01
John R Davis v. Department of Health & Human Services	00 CSE 1747	Conner	03/14/01
Martin W Rogers v. Department of Health & Human Services	00 CSE 1748	Wade	03/05/01
Ronald F Channell v. Department of Health & Human Services	00 CSE 1749	Conner	03/14/01
Louis William v. Department of Health & Human Services	00 CSE 1754	Lassiter	02/27/01
Robert Barry Jenkins Jr v. Department of Health & Human Services	00 CSE 1755	Gray	03/13/01
John F McCollum v. Department of Health & Human Services	00 CSE 1760	Wade	02/28/01
Craig S Murphy v. Department of Health & Human Services	00 CSE 1765	Morrison	04/04/01
John B Cox v. Department of Health & Human Services	00 CSE 1766	Lassiter	02/27/01
Anthony D Hines v. Department of Health & Human Services	00 CSE 1771	Gray	02/27/01
Gary E Nielsen v. Department of Health & Human Services	00 CSE 1772	Mann	02/28/01
James Faison v. Department of Health & Human Services	00 CSE 1774	Lassiter	03/05/01
Charles Junot v. Department of Health & Human Services	00 CSE 1775	Morrison	02/27/01
Richard Cook v. Department of Health & Human Services	00 CSE 1777	Conner	03/14/01
Kenneth E Frost v. Department of Health & Human Services	00 CSE 1783	Conner	03/14/01
George L Hart Jr. v. Department of Health & Human Services	00 CSE 1784	Morrison	02/27/01
Marti M Smith v. Department of Health & Human Services	00 CSE 1788	Lassiter	03/27/01
Tammy L Galdones v. Department of Health & Human Services	00 CSE 1800	Wade	03/08/01
Tarrence U Jackson v. Department of Health & Human Services	00 CSE 1802	Conner	03/14/01
Martin L Wheeler Jr v. Department of Health & Human Services	00 CSE 1803 ¹³	Chess	04/05/01
Clarence McCorkle, Jr v. Department of Health & Human Services	00 CSE 1805	Chess	02/26/01
Joseph P Bell v. Department of Health & Human Services	00 CSE 1807	Morrison	03/12/01
Lionel Cox v. Department of Health & Human Services	00 CSE 1808	Lassiter	03/27/01
Clinton Wilson v. Department of Health & Human Services	00 CSE 1810	Wade	03/08/01
James F Forney Jr v. Department of Health & Human Services	00 CSE 1811	Conner	03/14/01
Rodney Foster v. Department of Health & Human Services	00 CSE 1813	Gray	03/09/01
Jimmie Lee Nesbitt v. Department of Health & Human Services	00 CSE 1814	Mann	03/21/01
George Smith v. Department of Health & Human Services	00 CSE 1815	Morrison	04/10/01
James S Rollins v. Department of Health & Human Services	00 CSE 1816	Lassiter	03/12/01
Johnny Worth Deaver v. Department of Health & Human Services	00 CSE 1817	Morrison	03/13/01
Shawn T Miller v. Department of Health & Human Services	00 CSE 1818	Wade	03/08/01
Adrian Dixon v. Department of Health & Human Services	00 CSE 1820	Chess	03/19/01
Donna M Ledbetter v. Department of Health & Human Services	00 CSE 1823	Conner	03/14/01
Mark Jeffrey Duncan v. Department of Health & Human Services	00 CSE 1825	Lassiter	02/20/01
Ricky Lee Barrett v. Department of Health & Human Services	00 CSE 1827	Wade	03/08/01
Cynthia W McDaniel v. Department of Health & Human Services	00 CSE 1830	Gray	03/13/01
James T Jarvis IV v. Department of Health & Human Services	00 CSE 1832	Morrison	03/12/01
Michael O'Neal Fletcher v. Department of Health & Human Services	00 CSE 1834	Wade	03/08/01
Manargo V Boykin v. Department of Health & Human Services	00 CSE 1836	Conner	03/14/01
Dexter Leon Scott v. Department of Health & Human Services	00 CSE 1839	Chess	02/27/01
Jacqueline R Graham v. Department of Health & Human Services	00 CSE 1845	Morrison	03/12/01
Rasheed R Owens v. Department of Health & Human Services	00 CSE 1846	Lassiter	03/30/01
Roger H Allred Jr. v. Department of Health & Human Services	00 CSE 1848	Wade	03/08/01
Roy L Conner v. Department of Health & Human Services	00 CSE 1849	Morrison	05/15/01
David M Greene v. Department of Health & Human Services	00 CSE 1852	Morrison	03/12/01
Michael T Wilfong v. Department of Health & Human Services	00 CSE 1854	Lassiter	03/12/01
Bobby Grady v. Department of Health & Human Services	00 CSE 1856	Conner	03/14/01
Martin L Wheeler Jr v. Department of Health & Human Services	00 CSE 1858 ¹³	Chess	04/05/01
Dallas Walter Hamlett Jr v. Department of Health & Human Services	00 CSE 1859	Chess	04/02/01
Richard H Burkett v. Department of Health & Human Services	00 CSE 1864	Morrison	03/12/01
Terry L Barnette v. Department of Health & Human Services	00 CSE 1874	Gray	03/06/01
Benton P Welsh v. Department of Health & Human Services	00 CSE 1887	Wade	03/15/01
Kenney Curry v. Department of Health & Human Services	00 CSE 1888	Conner	03/21/01
Clarence McCorkle Jr v. Department of Health & Human Services	00 CSE 1890	Gray	03/15/01
William D Wall v. Department of Health & Human Services	00 CSE 1891	Mann	03/22/01
Cortez L Farrington v. Department of Health & Human Services	00 CSE 1892	Morrison	03/14/01
Lonnie Mathwig v. Department of Health & Human Services	00 CSE 1893	Lassiter	02/28/01
Carl Miller v. Department of Health & Human Services	00 CSE 1894	Morrison	01/31/01
Johnny Sellars v. Department of Health & Human Services	00 CSE 1895	Wade	03/15/01
Cuong Phu Le v. Department of Health & Human Services	00 CSE 1896	Conner	03/21/01
Stephen Budensiek v. Department of Health & Human Services	00 CSE 1898	Gray	03/15/01
Victor S Glass v. Department of Health & Human Services	00 CSE 1902	Morrison	02/28/01
James E Smith v. Department of Health & Human Services	00 CSE 1905	Wade	03/15/01
Isaac L. McCoy v. Department of Health & Human Services	00 CSE 1906	Conner	03/21/01
Dan L Puryear v. Department of Health & Human Services	00 CSE 1908	Gray	03/15/01
Chris Flowers v. Department of Health & Human Services	00 CSE 1911	Morrison	04/04/01
Maryann Denise Hardy v. Department of Health & Human Services	00 CSE 1913	Lassiter	04/04/01
Ray A Blackwell v. Department of Health & Human Services	00 CSE 1914	Wade	03/15/01
Jeremy F White v. Department of Health & Human Services	00 CSE 1916	Conner	03/21/01
Douglas C Fitzpatrick v. Department of Health & Human Services	00 CSE 1924	Mann	03/22/01
Johnny R Chance v. Department of Health & Human Services	00 CSE 1925	Wade	03/05/01

CONTESTED CASE DECISIONS

Jeffrey Kelly v. Department of Health & Human Services	00 CSE 1926	Conner	03/14/01
Martin Scott Evans v. Department of Health & Human Services	00 CSE 1932	Morrison	03/14/01
Israel Uzoma v. Department of Health & Human Services	00 CSE 1933	Morrison	03/14/01
Kevin Seay v. Department of Health & Human Services	00 CSE 1934	Lassiter	03/30/01
Robin Ramsey Parrott v. Department of Health & Human Services	00 CSE 1935	Conner	03/21/01
Roy Bethel Calhoun III v. Department of Health & Human Services	00 CSE 1939	Wade	03/15/01
Carnel Draughn Sr v. Department of Health & Human Services	00 CSE 1943	Lassiter	04/03/01
Clint Norris Jones v. Department of Health & Human Services	00 CSE 1944	Morrison	03/14/01
Tracy Clark v. Department of Health & Human Services	00 CSE 1961	Conner	03/23/01
Derwin Knight v. Department of Health & Human Services	00 CSE 1962	Chess	03/15/01
Robert L Harrell v. Department of Health & Human Services	00 CSE 1963	Gray	03/15/01
Sherrie Weaver v. Department of Health & Human Services	00 CSE 1964	Mann	03/22/01
Andrea Wilson v. Department of Health & Human Services	00 CSE 1966	Lassiter	03/12/01
Anthony Short v. Department of Health & Human Services	00 CSE 1968	Wade	03/22/01
Mark Steven Harvey v. Department of Health & Human Services	00 CSE 1972	Conner	03/30/01
Barry L Chandler v. Department of Health & Human Services	00 CSE 1973	Morrison	04/17/01
Kenneth Edison Jones v. Department of Health & Human Services	00 CSE 1976	Wade	03/29/01
Everett McClain Jr v. Department of Health & Human Services	00 CSE 1979	Gray	03/09/01
Rodney Glenn Whicker v. Department of Health & Human Services	00 CSE 1981	Morrison	03/14/01
Joseph J McDowell v. Department of Health & Human Services	00 CSE 1982	Lassiter	02/20/01
Ricky N Coley v. Department of Health & Human Services	00 CSE 1985	Conner	03/21/01
William Orville Martin v. Department of Health & Human Services	00 CSE 1986	Chess	05/17/01
Ronald E Harvey v. Department of Health & Human Services	00 CSE 1987	Gray	04/11/01
Steven G Williams v. Department of Health & Human Services	00 CSE 1989	Morrison	03/14/01
Alton R Hunt v. Department of Health & Human Services	00 CSE 1990	Lassiter	03/30/01
Terrance Thompson v. Department of Health & Human Services	00 CSE 1991	Mann	03/22/01
Patrick Kevin Swann v. Department of Health & Human Services	00 CSE 1992	Wade	03/15/01
James A Bowditch Sr v. Department of Health & Human Services	00 CSE 1993	Conner	03/14/01
Roger D Mintz v. Department of Health & Human Services	00 CSE 1997	Morrison	01/31/01
Eugene Harris v. Department of Health & Human Services	00 CSE 1998	Lassiter	03/21/01
Jimmy Clark v. Department of Health & Human Services	00 CSE 1999	Conner	02/14/01
Nancy Sells v. Department of Health & Human Services	00 CSE 2001	Conner	02/14/01
Jeffery A Maness v. Department of Health & Human Services	00 CSE 2003	Gray	02/28/01
Jerry L Jones v. Department of Health & Human Services	00 CSE 2005	Morrison	03/14/01
Steven P Ray v. Department of Health & Human Services	00 CSE 2006	Lassiter	05/01/01
Kenneth D Abner v. Department of Health & Human Services	00 CSE 2008	Conner	03/22/01
Robert W MacDonald Sr. v. Department of Health & Human Services	00 CSE 2015	Wade	03/05/01
Norman Lee Fillers v. Department of Health & Human Services	00 CSE 2016	Conner	02/14/01
Gerald H Lord v. Department of Health & Human Services	00 CSE 2018	Gray	03/15/01
Michael William Smith v. Department of Health & Human Services	00 CSE 2019	Wade	04/04/01
Daniel H Caudill v. Department of Health & Human Services	00 CSE 2022	Chess	03/21/01
William R Payne v. Department of Health & Human Services	00 CSE 2023	Wade	03/15/01
Christopher Evans v. Department of Health & Human Services	00 CSE 2024	Conner	03/30/01
Jimmy D White v. Department of Health & Human Services	00 CSE 2026	Gray	03/22/01
Shawn E Richardson v. Department of Health & Human Services	00 CSE 2027	Mann	03/22/01
Franklin Givens v. Department of Health & Human Services	00 CSE 2028	Morrison	03/14/01
Myron S Pierce v. Department of Health & Human Services	00 CSE 2029	Lassiter	03/21/01
Terrence Dunlap v. Department of Health & Human Services	00 CSE 2030	Gray	03/21/01
Allen E Clyburn v. Department of Health & Human Services	00 CSE 2032	Chess	03/13/01
Sheila C Horne v. Department of Health & Human Services	00 CSE 2033	Wade	03/22/01
Shawn Braxton v. Department of Health & Human Services	00 CSE 2044	Gray	03/15/01
Derrick L Pope v. Department of Health & Human Services	00 CSE 2045	Conner	03/14/01
William Everett Banks Jr v. Department of Health & Human Services	00 CSE 2049	Morrison	03/14/01
Philip Ligatti v. Department of Health & Human Services	00 CSE 2058	Lassiter	02/20/01
Philip Ligatti v. Department of Health & Human Services	00 CSE 2059	Wade	02/20/01
Crystal Anne Barton v. Department of Health & Human Services	00 CSE 2064	Morrison	02/27/01
Chris Alexander King v. Department of Health & Human Services	00 CSE 2066	Wade	03/13/01
Marko D Perry v. Department of Health & Human Services	00 CSE 2067	Wade	03/22/01
James Thomas Smith v. Department of Health & Human Services	00 CSE 2068	Conner	03/23/01
Melvin T Green v. Department of Health & Human Services	00 CSE 2069	Chess	03/21/01
Dwayne Scott Barlow v. Department of Health & Human Services	00 CSE 2070	Gray	03/06/01
Harold D Overby Jr v. Department of Health & Human Services	00 CSE 2074	Morrison	02/20/01
Hamid Ehsani-Shishvan v. Department of Health & Human Services	00 CSE 2076	Mann	03/22/01
John William Berg Jr v. Department of Health & Human Services	00 CSE 2081	Conner	03/30/01
Jasper L Goodwin v. Department of Health & Human Services	00 CSE 2083	Gray	03/21/01
Alfredo Gomez v. Department of Health & Human Services	00 CSE 2092	Morrison	03/21/01
Jason A Knepschild v. Department of Health & Human Services	00 CSE 2093	Lassiter	03/26/01
Joseph L Sykes v. Department of Health & Human Services	00 CSE 2095	Conner	03/22/01
Michael R Sweat v. Department of Health & Human Services	00 CSE 2097	Conner	03/14/01
Russell L Brown v. Department of Health & Human Services	00 CSE 2105	Lassiter	03/21/01
Henry Johnson v. Department of Health & Human Services	00 CSE 2106	Gray	03/21/01
Victor L Foster Sr v. Department of Health & Human Services	00 CSE 2110	Morrison	03/05/01
Kimberly Sue Nance v. Department of Health & Human Services	00 CSE 2111	Lassiter	03/21/01
Jonathan P Deese v. Department of Health & Human Services	00 CSE 2112	Wade	02/02/01
David Bryant Shuping v. Department of Health & Human Services	00 CSE 2113	Conner	03/30/01
Christopher B Thompson v. Department of Health & Human Services	00 CSE 2123	Mann	03/22/01
Fredrick Gilmore v. Department of Health & Human Services	00 CSE 2124 ¹⁰	Morrison	03/21/01
Dwayne Scott Barlow v. Department of Health & Human Services	00 CSE 2131	Wade	03/05/01
Randy L Galloway v. Department of Health & Human Services	00 CSE 2132	Conner	03/22/01
Joe L Green v. Department of Health & Human Services	00 CSE 2136	Gray	03/30/01
Paul Billiot v. Department of Health & Human Services	00 CSE 2137	Conner	03/30/01

CONTESTED CASE DECISIONS

Theodore Rasheed Akins v. Department of Health & Human Services	00 CSE 2142	Morrison	03/30/01
Anita Davis v. Department of Health & Human Services	00 CSE 2145	Lassiter	02/27/01
Marvin Price Jr v. Department of Health & Human Services	00 CSE 2146	Wade	04/04/01
Nathaniel Armstrong v. Department of Health & Human Services	00 CSE 2150	Gray	02/27/01
Samuel Thomas v. Department of Health & Human Services	00 CSE 2151	Morrison	03/30/01
Boulware, Rodney Durand v. Department of Health & Human Services	00 CSE 2154	Wade	03/13/01
Keith V Cunningham v. Department of Health & Human Services	00 CSE 2161	Gray	02/20/01
Kenneth Chapman v. Department of Health & Human Services	00 CSE 2163	Morrison	05/01/01
Derrick Link v. Department of Health & Human Services	00 CSE 2166	Mann	03/13/01
Kenneth W Kelly v. Department of Health & Human Services	00 CSE 2169	Wade	04/04/01
Stephen Lake Sargent v. Department of Health & Human Services	00 CSE 2176	Gray	03/30/01
Michael R Whitford v. Department of Health & Human Services	00 CSE 2178	Morrison	03/27/01
Christopher Scott v. Department of Health & Human Services	00 CSE 2182	Morrison	03/05/01
Aaron L Roper Sr v. Department of Health & Human Services	00 CSE 2187	Lassiter	04/03/01
Robert Johnson v. Department of Health & Human Services	00 CSE 2199	Conner	05/07/01
Melissa Reid v. Department of Health & Human Services	00 CSE 2201	Conner	04/17/01
Jimmy K Wallace v. Department of Health & Human Services	00 CSE 2212	Morrison	03/29/01
Guy John Harris v. Department of Health & Human Services	00 CSE 2215	Wade	04/04/01
Rodger E Smith v. Department of Health & Human Services	00 CSE 2217	Morrison	04/03/01
Robert T Crider v. Department of Health & Human Services	00 CSE 2219	Gray	04/03/01
Octavius A Williams v. Department of Health & Human Services	00 CSE 2220	Wade	04/04/01
James Banks Drane v. Department of Health & Human Services	00 CSE 2241	Wade	05/02/01
Timothy Sweat v. Department of Health & Human Services	00 CSE 2248	Gray	04/19/01
Timothy Odell Lindsey v. Department of Health & Human Services	00 CSE 2249 ¹⁴	Morrison	04/10/01
Timothy Odell Lindsey v. Department of Health & Human Services	00 CSE 2250 ¹⁴	Morrison	04/10/01
Juan P Thompson v. Department of Health & Human Services	00 CSE 2251	Lassiter	04/10/01
Steven H Fagan v. Department of Health & Human Services	00 CSE 2255	Wade	05/02/01
Kenneth Omar Tyson v. Department of Health & Human Services	00 CSE 2256	Conner	04/17/01
Terrie Oatman v. Department of Health & Human Services	00 CSE 2263	Conner	04/17/01
Richard E Chatman v. Department of Health & Human Services	00 CSE 2269	Morrison	04/10/01
Brian E Presson v. Department of Health & Human Services	00 CSE 2271	Lassiter	05/02/01
Charles Arthur Neal IV v. Department of Health & Human Services	00 CSE 2272	Conner	03/22/01
Johnny Ray Gainey v. Department of Health & Human Services	01 CSE 0004	Gray	05/04/01
Teller A Limon v. Department of Health & Human Services	01 CSE 0017	Morrison	03/27/01
John Levine v. Department of Health & Human Services	01 CSE 0028	Mann	05/02/01
Raphael Scott v. Department of Health & Human Services	01 CSE 0029	Lassiter	05/02/01
Thomas F Rash Sr v. Department of Health & Human Services	01 CSE 0039	Gray	05/11/01
Courtney Brown v. Department of Health & Human Services	01 CSE 0059	Lassiter	03/05/01
Craig Lawrence Brooks v. Department of Health & Human Services	01 CSE 0074	Conner	05/07/01
William L Anderson v. Department of Health & Human Services	00 CSE 0179	Conner	03/30/01
Evelyn Brindle v. Department of Health & Human Services	01 CSE 0180	Chess	04/02/01
Jason Rogers Sr v. Department of Health & Human Services	01 CSE 0221	Wade	05/02/01
Gary Russell Chambliss Jr v. Department of Health & Human Services	01 CSE 0241	Conner	03/30/01
Thomas Mammarelli v. Department of Health & Human Services	01 CSE 0255	Gray	04/11/01
Drorester O Alexander v. Department of Health & Human Services	01 CSE 0367	Lassiter	04/10/01
John Green v. Department of Health & Human Services	01 CSE 0382	Elkins	05/14/01
Danny Lee Williams v. Department of Health & Human Services	01 CSE 0400	Chess	05/03/01
Alvin E Jenkins v. Department of Health & Human Services	01 CSE 0406	Morrison	05/23/01
Jernava L Davis v. Department of Health & Human Services	01 CSE 0407	Morrison	05/09/01
Teresa Diane Bell v. Department of Health & Human Services	01 CSE 0436	Wade	05/09/01
Carlos Eugene Jacobs v. Department of Health & Human Services	01 CSE 0462	Lassiter	05/09/01
Albert A Kelly v. Department of Health & Human Services	01 CSE 0471	Chess	05/17/01
Theodore Justice v. Department of Health & Human Services	01 CSE 0475	Conner	05/07/01
Kimberly G Wadsworth v. Department of Health & Human Services	01 CSE 0510	Gray	05/11/01
Larry O Anthony v. Department of Health & Human Services	01 CSE 0537	Wade	05/09/01
James Banks Drane v. Department of Health & Human Services	01 CSE 0680	Morrison	05/23/01

Division of Social Services

Mary Laforet v. Department of Health & Human Services	99 DCS 0372	Lassiter	01/12/01
Emma Burkes (Edwards) v. Department of Health & Human Services	00 DCS 1221	Morrison	08/17/00
Frederica LaShon Smith v. Department of Health & Human Services	00 DCS 0277 ¹	Wade	06/30/00
Michael Clay Mitchell v. Department of Health & Human Services	00 DCS 0300	Wade	06/30/00
Sherry Moorefield v. Department of Health & Human Services	00 DCS 0350	Gray	08/25/00
Pamela Browning Frazier v. Department of Health & Human Services	00 DCS 0479	Lassiter	06/12/00
Lisa Lawler v. Department of Health & Human Services	00 DCS 0529	Morrison	08/29/00
May M. Timmons v. Department of Health & Human Services	00 DCS 0546	Gray	06/22/00
Starice Jennifer Anderson v. Department of Health & Human Services	00 DCS 0556	Gray	08/10/00
Beverly Hawking v. Department of Health & Human Services	00 DCS 0600	Mann	06/30/00
Lisa Hardy v. Department of Health & Human Services	00 DCS 0678	Mann	07/17/00
Chasity Pipkin v. Department of Health & Human Services	00 DCS 0838	Gray	09/11/00
Joyce Staley v. Department of Health & Human Services	00 DCS 0842	Conner	09/12/00
Bessie B. Hampton v. Department of Health & Human Services	00 DCS 0845	Morrison	08/29/00
Beverly Singleton v. Department of Health & Human Services	00 DCS 0846	Lassiter	08/18/00
Kerry Lynn Morgan v. Department of Health & Human Services	00 DCS 0850	Conner	09/12/00
Bonnie D. Drew v. Department of Health & Human Services	00 DCS 0906	Morrison	08/28/00
Amy W. Hill v. Department of Health & Human Services	00 DCS 0974	Lassiter	09/08/00
Amelia B. Bradshaw v. Department of Health & Human Services	00 DCS 0996	Mann	09/13/00
Deborah Gray v. Department of Health & Human Services	00 DCS 1068	Morrison	09/19/00
Kimberly D. Mays v. Department of Health & Human Services	00 DCS 1099	Gray	10/27/00
Jennifer C. Dillard v. Department of Health & Human Services	00 DCS 1119	Wade	09/29/00
Johnny K. Moore v. Department of Health & Human Services	00 DCS 1179	Morrison	10/04/00

CONTESTED CASE DECISIONS

Latisha Eason Parker v. Department of Health & Human Services	00 DCS 1195	Wade	10/31/00	
Jannai Neal v. Department of Health & Human Services	00 DCS 1227	Conner	10/24/00	
Sheila Foy v. Department of Health & Human Services	00 DCS 1238	Gray	10/27/00	
Reta M. Dixon v. Department of Health & Human Services	00 DCS 1381	Conner	12/04/00	
Benita Hopkins v. Department of Health & Human Services	00 DCS 1444	Lassiter	12/18/00	
Mary Springer v. Department of Health & Human Services	00 DCS 1459	Conner	12/20/00	
Tameca Grant v. Department of Health & Human Services	00 DCS 1533	Wade	01/12/01	
Della T Austin for Christopher Moore v. Dept. of Health & Human Svcs.	00 DCS 1740	Lassiter	01/31/01	
Michael Anthony Bowden v. Department of Health & Human Services	00 DCS 2050	Lassiter	01/31/01	
Sanja S Whittington v. Department of Health & Human Services	00 DCS 2084	Morrison	02/12/01	
Fredrick Gilmore v. Department of Health & Human Services	00 DCS 2126 ¹⁰	Morrison	03/21/01	
Benita J Marshall v. Department of Health & Human Services	01 DCS 0141	Morrison	03/30/01	
Angelika Alsten v. Department of Health & Human Services	01 DCS 0451	Gray	05/29/01	
Susan E Hurley v. Department of Health & Human Services	01 DCS 0458	Lassiter	05/09/01	
Albemarle Mental Health Center, Developmental Disabilities: Substance Abuse Services v. NC Dept. of Health & Human Services, Division of Medical Assistance and NC Council of Community Mental Health, Developmental Disabilities and Substance Abuse Programs, Inc.	98 DHR 1598	Reilly	12/15/00	15:15 NCR 1440
Estelle Roberta Allison Teague and Marlene Allison Creary v. Department of Health & Human Services	99 DHR 0120	Reilly	05/15/00	
Philistine Thompson v. Department of Health & Human Services	99 DHR 0741	Gray	08/22/00	
Ruth I. Johnson v. Department of Health & Human Services	99 DHR 0952	Chess	05/27/00	
Lakecher McFadden v. Department of Health & Human Services	99 DHR 1631	Conner	09/18/00	
Carrie Jenkins, by and through her Guardian, John Jenkins v. NC Dept. of Health & Human Services	00 DHR 0119	Wade	02/14/01	
Mary Johnson McClure v. Department of Health & Human Services	00 DHR 0368	Lassiter	06/19/00	
Barry Arthur Kelly, Linda Snipes Kelley v. Department of Health and Human Services	00 DHR 0038	Gray	09/15/00	
Vonda Scales Shore v. Department of Health & Human Services	00 DHR 0500	Lassiter	10/06/00	
Ann Marie & Daniel Short v. Department of Health & Human Services	00 DHR 0574	Reilly	05/22/00	
Lynell Holley Walton v. DHHS, (Health Care Personnel Registry & Investigations)	00 DHR 0605	Chess	08/15/00	
Deborah A. Shands v. Butner Adolescent Treatment Center	00 DHR 0695	Mann	07/27/00	
Larry E. Cummins MD, PI Case #1999-1752 v. Div. of Medical Assistance, Kim Meymandi, Chief Hearing Officer	00 DHR 0797	Lassiter	08/01/00	
Larry E. Cummins MD, PI Case #1999-1117 v. Div. of Medical Assistance, Kim Meymandi, Chief Hearing Officer	00 DHR 0798	Lassiter	08/01/00	
Lenora M Brewer v Office of Administrative	00 DHR 0943	Conner	03/01/01	
Robert and Shirley Harmon on behalf of Gary Harmon v. Crossroads Behavioral Healthcare Center and the NC Div of Mental Health, Dev. Disabilities and Substance Abuse Services	00 DHR 0955	Chess	09/07/00	
Walter W. Griswold for Kimberly Griswold v. Crossroads Behavioral Healthcare Center and the NC Div of Mental Health, Dev. Disabilities and Substance Abuse Services	00 DHR 1025	Chess	09/07/00	
Janie Best v DHHS, NC Medial Examiner's Office	00 DHR 1029	Mann	02/20/01	
Carolyn W. Cooper and Happy Days Child Care v. DHHS, Div of Child Development	00 DHR 1031	Gray	08/31/00	
Mildred Willis v. Avante of Wilson, NC Dept of Health & Human Services	00 DHR 1310	Conner	02/16/01	
Iola Jones v. NC Department of Human Resources	00 DHR 1320	Morrison	02/23/01	
Larnetra D. Noel v. NC Department of Human Services	00 DHR 1327	Chess	10/06/00	
Chawona Lynn Emanuel v. Department of Health & Human Services	00 DHR 1360	Gray	01/31/01	
Lee T. Wilson v. NC DHHS, Office of the Controller	00 DHR 1371 ⁶	Gray	01/09/01	
Tracy McLeod v. First Health Richmond Cty Home Health, DHR-DOFS	00 DHR 1382	Gray	11/21/00	
Lee T. Wilson v. NC DHHS, Office of the Controller	00 DHR 1383 ⁶	Gray	01/09/01	
Penny Jean Leary for Hyaile Okanoto v. Div. of Medical Assistance	00 DHR 1400	Gray	01/11/01	
Sylvia Davis v. Homeplace of Burlington Nurse Aide Registry	00 DHR 1488	Mann	02/26/01	
Reshea Devon Pierce v. Department of Health & Human Services	00 DHR 1516	Morrison	12/18/00	
William C Wetmore v. DHHS, Health Care Personnel Registry Invstgns.	00 DHR 1744	Mann	02/08/01	
Barbara Hayes v. Sampson Co Dept of Social Services, Sarah W. Bradshaw, Director & NC DHHS	00 DHR 2040	Gray	02/21/01	
Beatrice Harper v. NC Human & Health Services	00 DHR 2048	Gray	02/06/01	
Melissa M. Hale v. State of NC Office of Administrative Hearings	00 DHR 2077	Chess	01/26/01	
Christian Child Development v. NC Child Care Division	00 DHR 2128	Chess	04/26/01	
James Crosland and wife, Carolyn Crosland v. Polk County Dept. of Social Services	00 DHR 2130	Gray	01/04/01	
Brandi Joanna Padgett v. NC Department of Human Resources	00 DHR 2277	Gray	02/26/01	
Rita Wilson v. Dept. of D.S.S. Cleveland County	01 DHR 0205	Elkins	04/18/01	
Patricia A. Jackson v. Office of Administrative Hearings	01 DHR 0206	Lassiter	03/27/01	
Kyna Z Robinson v. DHHS, Division of Child Development	01 DHR 0294	Lassiter	04/04/01	
Amy Cahoon v. John Umstead Hospital & DHHS	01 DHR 0356	Lassiter	04/20/01	
Mitchell McKinley Leary v. Walter B Jones ADATC	01 DHR 0397	Lassiter	05/16/01	
Beverly Merritt v. Nash County Dept Social Services – Food Stamp	01 DHR 0472	Lassiter	04/19/01	
Charles Yancey Watson v. Currituck County Dept of Social Services	01 DHR 0507	Lassiter	04/19/01	
William C Chisholm, Evelyn Chisholm v. DHHS, Div. of Women's and Children's Health, Nutrition Services Section	01 DHR 0517	Lassiter	05/15/01	
Clifton E Thomas, Jr. & Pamela M Thomas v. DHHS, Rowan Co. DSS	01 DHR 0531	Gray	05/18/01	
Paula Martin v. DHHS, Division of Social Services	01 DHR 0536	Lassiter	04/20/01	
Angela M. Roberts v. DHHS, Carteret Co. Dept. of Social Services	01 DHR 0596	Gray	05/14/01	
Clay Rogers Sr. v. DHHS, Division of Medical Assistance	01 DHR 0638	Morrison	04/23/01	
Reda M (J) Staton and (Vanee, Joseph & Jaitel) v. (DMA) Division	01 DHR 0668	Lassiter	05/07/01	

CONTESTED CASE DECISIONS

of Medical Assistance

Division of Facility Services

Angela Denise Headen v. DHHS, Division of Facility Services	99 DHR 0107	Wade	04/11/00	15:01 NCR	41
Ruth Mae Wiley v. NC DHHS, Division of Facility Services	99 DHR 0331	Chess	05/27/00		
Elyse Glover v. DHHS, Div of Facility Svcs., Personnel Registry Case	99 DHR 1036	Lassiter	06/29/00		
Sharon J. Saxe v. DHHS, Division of Facility Services	99 DHR 1169	Lassiter	11/16/00	15:14 NCR	1396
Crystal Shermain Byers v. DHHS, Division of Facility Services	00 DHR 0217	Mann	06/07/00		
Rhonda Gail Andrew v. DHHS, Division of Facility Services	00 DHR 0282	Chess	09/21/00		
Camille Faustin v. DHHS, Division of Facility Services	00 DHR 0298	Smith	06/28/00		
David Jordan v. DHHS, Division of Facility Services	00 DHR 0311	Lassiter	06/19/00		
Nancy Yarbrough Allen v. DHHS, Division of Facility Services	00 DHR 0356	Gray	06/23/00		
Greensboro Heart Center, LLC v. NC DHHS, Division of Facility Services, Certificate of Need Section & The Moses H. Cone Memorial Hospital & The Moses H. Cone Memorial Hospital Operating Corporation	00 DHR 0375	Lassiter	12/19/00		
Lester Lee Huskins v. DHHS, Division of Facility Services	00 DHR 0391	Lassiter	08/29/00		
Charlene Jenkins v. DHHS, Div. of Facility Svcs., Health Care Personnel, Registry Section	00 DHR 0531	Wade	11/27/00		
Helen Ramsey v. DHHS, Division of Facility Services	00 DHR 0578	Conner	01/29/01		
Cynthia Renee Cajuste v. DHHS, Division of Facility Services	00 DHR 0606	Morrison	11/08/00		
Celestine L. Bristol v. DHHS, Division of Facility Services	00 DHR 0636	Lassiter	08/15/00		
Anthony Alan Bennett v DHHS, Division of Facility Services	00 DHR 0664	Conner	03/06/01		
Violet Anne Berliner v. DHHS, Division of Facility Services	00 DHR 0685	Gray	11/17/00		
James Clavin DeShields v. DHHS, Division of Facility Services	00 DHR 0692	Reilly	05/18/01		
MariaGoretti Adaugo Obialor v. DHHS, Div. of Facility Services	00 DHR 0743	Morrison	08/31/00		
Charlotte A Withers v. DHHS, Division of Facility Services	00 DHR 0754 ¹¹	Gray	03/15/01		
Huelva Dale Corbett v. DHHS, Div. of Facility Services	00 DHS 0780	Gray	09/27/00		
Phoebe Visconti Sanders v. DHHS, Div. of Facility Services	00 DHR 0802	Lassiter	09/27/00		
Iola Cook Jefferson v. DHHS, Division of Facility Services	00 DHR 0835	Lassiter	07/24/00		
Michelle E. Lee v. DHHS, Division of Facility Services	00 DHR 0869	Conner	10/10/00	15:10 NCR	1045
Betty Jean Ellis v. DHHS, Division of Facility Services	00 DHR 0880	Lassiter	09/08/00		
Faleisha Cassandra Worsley v. DHHS, Division of Facility Services	00 DHR 1013	Chess	02/22/01		
Hartis Stallings v. DHHS, Division of Facility Services	00 DHR 1037	Lassiter	08/29/00		
Desiree P. Garay v. DHHS, Division of Facility Services	00 DHR 1038	Conner	09/20/00		
Lauren Hoodenpyle v. DHHS Division of Facility Services	00 DHR 1045	Chess	09/12/00		
Jacqueline Alexander v. DHHS, Division of Facility Services	00 DHR 1126	Lassiter	09/07/00		
Charlotte A Withers v. DHHS, Division of Facility Services	00 DHR 1127 ¹¹	Gray	03/15/01		
Debra Brown v. DHHS, Division of Facility Services	00 DHR 1136	Lassiter	09/07/00		
Tracy Smith v. DHHS, Division of Facility Services	00 DHR 1236	Lassiter	10/16/00		
Michele Carver v. DHHS, Div. of Facility Services, Health Care Personnel Registry	00 DHR 1289	Lassiter	10/05/00		
Sherie Moran Hinson Edwards v. DHHS, Division of Facility Services	00 DHR 1299	Morrison	12/18/00		
Mary Carmon Williams v. DHHS, Division of Facility Services	00 DHR 1308	Conner	02/01/01		
Ruby L. Laughter v. DHHS, Division of Facility Services	00 DHR 1346	Lassiter	01/31/01		
Lakiya S Mewborn v. DHHS, Division of Facility Services	00 DHR 1437	Gray	02/19/01		
Jonathan L. Merrell & Judith A. Merrell, and Eyring Realty, Inc. v. DHHS, Division of Facility Services & S & R Healthcare, Inc.	00 DHR 1461	Mann	01/31/01		
Ms Erman M Patterson v. DHHS, Division of Facility Services	00 DHR 1465	Gray	02/16/01		
Elois Little v. DHHS, Division of Facility Services	00 DHR 1790	Morrison	02/15/01		
Elizabeth Ramsey v. DHHS, Division of Facility Services	00 DHR 2091	Morrison	05/23/01		
William Rode Holloman v. DHHS, Division of Facility Services, Health Care Personnel Registry and Investigations	00 DHR 2168	Chess	05/03/01		
Teresa A. Monk v. DHHS, Division of Facility Services	00 DHR 2170	Elkins	05/01/01		
Laura Cannon v. DHHS, Division of Facility Services	00 DHR 2242	Morrison	05/29/01		
Janet Stephens v. DHHS, Division of Facility Services	01 DHR 0008	Mann	02/08/01		
Octavia L Hill v. WisperPines Nursing Home of Fayetteville and DHHS, Division of Facility Services	01 DHR 0009	Mann	02/08/01		
Stephanie Mc Knight v. DHHS, Division of Facility Services	01 DHR 0235	Chess	04/02/01		
Octavia Hill v. Whispering Pines Nursing Home of Fayetteville and Dept. of Human Services, Division of Facility Services	01 DHR 0304	Elkins	04/12/01		
Katherine Coffey v. DHHS, Division of Facility Services	01 DHR 0369	Morrison	05/23/01		

DEPARTMENT OF AGRICULTURE

Norman Dudgeon dba Mountain Vista Growers v. NC Department of Agriculture	00 DAG 0676	Gray	02/16/01		
--	-------------	------	----------	--	--

ENVIRONMENT AND NATURAL RESOURCES

Louise P Hill v. Halifax Co. Dept. of Environmental Health	97 EHR 0207	Gray	05/22/01		
Ronnie L. Sturdivant v. Dept. of Environment & Natural Resources	98 EHR 1222	Lassiter	05/11/00	15:04 NCR	501
Willie Setzer, individually and as President of Setzer Brothers Well Boring & Drilling Co v. Dept of Environment & Natural Resources	98 EHR 1260 ¹⁵	Chess	12/03/00		
Willie Setzer, individually and as President of Setzer Brothers Well Boring & Drilling Co v. Dept of Environment & Natural Resources	98 EHR 1261 ¹⁵	Chess	12/03/00		
Willie Setzer, individually and as President of Setzer Brothers Well Boring & Drilling Co v. Dept of Environment & Natural Resources	98 EHR 1262 ¹⁵	Chess	12/03/00		
Dan M. Eichenbaum v. DENR & Harrison Construction Division of APAC-Tennessee, Inc.	99 EHR 0191	Lassiter	11/21/00		
Dixie Lumber Company of Cherryville, Inc. v. Department of Environment & Natural Resources	99 EHR 0395	Wade	05/04/00		
Thomas Tilley, Trustee v. Dept. of Environment & Natural Resources	99 EHR 1136 ⁷	Lassiter	01/01/00		
Shuttle Cleaning Service, Inc., Phillip Allen (Owner) v. Dept. of	99 EHR 1167	Reilly	05/19/00	15:06 NCR	696

CONTESTED CASE DECISIONS

Environment & Natural Resources				
Murphy Family Farms v. Department of Environment & Natural Resources	99 EHR 1181	Gray	08/14/00	
Sarah Robbins Collins v. Dept. of Environment & Natural Resources	99 EHR 1265	Wade	11/28/00	
William A. Weston, Jr. v. Dept. of Environment & Natural Resources	99 EHR 1538	Conner	05/24/00	15:03 NCR 343
William F. McBrayer, Jr. v. Dept. of Environment & Natural Resources	99 EHR 1566	Wade	08/21/00	
Howard L. Hardy, Kenneth & Vester Freeman v. Department of Environment & Natural Resources	99 EHR 1600	Gray	08/31/00	
Heater Utilities, Inc. v. Department of Environment & Natural Resources	99 EHR 1609	Gray	04/25/01	
Thomas Tilley, Trustee v. Dept. of Environment & Natural Resources	99 EHR 1627 ⁷	Lassiter	01/01/00	
Gregory Marc Edwards v. Department of Environment & Natural Resources	99 EHR 1635	Wade	09/29/00	
Leonard F. Sutton v. Division of Forest Resources	00 EHR 0072	Morrison	12/18/00	15:15 NCR 1435
David Sinclair v. Dept. of Environment & Natural Resources	00 EHR 0126	Conner	08/15/00	15:06 NCR 693
William M. White v. Dept. of Environment & Natural Resources	00 EHR 0140	Lassiter	05/21/01	
Jerry D. Phillips v. Department of Environment & Natural Resources	00 EHR 0151	Chess	09/28/00	
Samuel A. Perrella v. Div. of Environmental Health, New Bern, NC	00 EHR 0219	Gray	11/16/01	
Amos Walter Jackson v. Dept. of Environment & Natural Resources	00 EHR 0568	Gray	09/22/00	
Archie D. Fellenzer, Jr. v. CAMA	00 EHR 0836	Morrison	11/03/00	
Turnbull Company LLC v. NC Dept of Environment & Natural Resources	00 EHR 0881	Wade	02/02/01	
Carolina Mountain Construction, Inc. v. Dept. of Env. & Natural Resources	00 EHR 0902	Chess	09/07/00	
Dudley A. Dawson v. NC DENR, (Person County Health Department)	00 EHR 0920	Lassiter	02/15/01	
Mark Oil Company, Inc. v. Department of Environment & Natural Resources	00 EHR 0926	Gray	12/29/00	
Elizabeth H. Riggs v. Person Co. Health Dept. Envir. Health Program	00 EHR 1016	Gray	05/18/01	
Peter Pallas v. New Hanover County Board of Health	00 EHR 1149	Chess	10/19/00	
Jerry J. Fowler v. Department of Environment & Natural Resources	00 EHR 1154	Chess	10/27/00	
William A. Sergeant Lot 9 v. Dept. of Environment & Natural Resources	00 EHR 1210	Gray	12/12/00	
Scotty's Mobile Village, Larry G. Scott v. Dept. of Env. & Natural Resources	00 EHR 1266	Morrison	12/12/00	
Arland Community Development v. Dept. of Env. & Natural Resources	00 EHR 1300	Mann	03/08/01	
Ed Jones, Jr. v. Department of Environment & Natural Resources	00 EHR 1385	Morrison	04/24/01	
Randy Graham v. Environmental Health of Alamance County	00 EHR 1393	Gray	12/29/00	
Joe Patrick Nugen v. Brunswick Co. Health Dept. Env. Health Div.	00 EHR 1427	Morrison	05/09/01	
Clark Stone Company, Inc. v. NC DENR, Div. of Land Resources and Appalachian Trail Conference; National Conservation Association; Unincorporated Association of Citizens to Protect Belview Mountain; Ollie Cox and Faye Williams	00 EHR 1468	Lassiter	05/02/01	15:23 NCR 1955
Chris & Senja Shumater v. Dept. of Environment & Natural Resources	00 EHR 1584	Morrison	12/18/00	
Faye M. Goforth d/b/a Figurama Health & Beauty Spa v. DENR, Div. of Radiation Protection	00 EHR 1664	Conner	05/17/01	
M. Mark Higby for Westglow Spa, Inc. v. Appalachian District Health Dept.	00 EHR 1745	Elkins	05/23/01	
Lisa King v. Brunswick County Health Department	00 EHR 1778	Lassiter	01/19/01	
Robert H. Bilbro v. DENR/Division of Coastal Management	00 EHR 1843	Chess	01/19/01	
Levi Moore, Jr. v. Brunswick County Health Department	00 EHR 1883	Lassiter	02/13/01	
Kelly Jones v. Office of Administrative Hearings	01 EHR 0007	Chess	02/22/01	
John B Baird v. Chatham Co Health Dept., Siler City, NC	01 EHR 0043	Morrison	05/03/01	
Phillip Brown, Lucy Brown v. Dept. of Env. & Natural Resources	01 EHR 0103	Morrison	04/24/01	
Landstar Properties LLC v. NC DENR	01 EHR 0323	Morrison	05/24/01	
Coastal Resources Commission				
Gregory A. Bohmert v. Coastal Resources Commission	99 EHR 1438	Reilly	05/24/00	15:03 NCR 342
Division of Air Quality				
Bullock Properties/Ralph M. Bullock v. DENR, Div. of Air Quality	99 EHR 1088	Morrison	04/12/00	
VXIII Airborne Corps & Fort Bragg, Dept. of the Army, USA v. State of North Carolina, Dept. of Environment and Natural Resources, Division of Air Quality	00 EHR 0227	Conner	08/31/00	
MW Clearing and Grading, Inc. v. DENR, Div. of Air Quality	00 EHR 0286	Wade	11/28/00	
Guy M Long III v. NC DENR, Division of Air Quality	00 EHR 0975	Chess	01/19/01	
Billy V. Cain v. NC DENR, Division of Air Quality	00 EHR 1351	Lassiter	01/11/01	
Mike Cooper v. NC DENR< Division of Air Quality	00 EHR 2013	Conner	04/23/01	
Division of Land Resources				
James Carlis Reavis and Melinda D. Reavis v. NC DENR, Division of Land Resources	98 EHR 1292	Gray	10/16/00	
Division of Marine Fisheries				
Harold & Jettie Babson v. DENR, Division of Marine Fisheries	98 EHR 0815	Gray	12/14/00	
Division of Water Quality				
Fred J. McPherson v. DENR, Division of Water Quality	00 EHR 0160	Morrison	09/01/00	
Town of Wallace v. NCDENR, Division of Water Quality	00 EHR 0247	Lassiter	10/05/00	
Frederick Holland, Hervie S. Honeycut, and Mary Jane P. Osborne v. NCDENR, Division of Water Quality	00 EHR 0332	Conner	09/18/00	
J.C. Faw v. NC DENR, Division of Water Quality	00 EHR 0825	Wade	04/04/01	
John P. Hendrix v. NC DENR, Div. of Water Quality	00 EHR 0966	Wade	03/09/01	
Johnny Barrier, Jonas Ridge Nursing Home v. NC DENR, Division of Water Quality	00 EHR 2155	Conner	02/26/01	
Division of Waste Management				
A. J. Lancaster, Jr. v. NC DENR, Div. of Waste Management	99 EHR 0994	Mann	07/27/00	15:05 NCR 636

JUSTICE

CONTESTED CASE DECISIONS

Alarm Systems Licensing Board

John Martin Canter v Alarm Systems Licensing Board	00 DOJ 0573	Gray	06/02/00	
Kenneth Waits Putnam v. Alarm Systems Licensing Board	00 DOJ 0574	Gray	06/07/00	
James Thomas Wagg v. Alarm Systems Licensing Board	00 DOJ 1124	Lassiter	11/02/00	
Edwin Moore Stevens v. Alarm Systems Licensing Board	00 DOJ 1413	Lassiter	11/02/00	
Phillip Randall Millard v. Alarm Systems Licensing Board	00 DOJ 2052	Mann	04/11/01	
Brain Craig Glass v. Alarm Systems Licensing Board	00 DOJ 2053	Gray	02/09/01	
Jody Durell Stancil v. Alarm Systems Licensing Board	00 DOJ 2054	Conner	02/22/01	
James Eric Rollings v. Alarm Systems Licensing Board	01 DOJ 0014	Mann	03/15/01	
Jerry Lee Futrell v. Alarm Systems Licensing Board	01 DOJ 0107	Mann	03/27/01	

Education and Training Standards Division

Peter A. Davis v. Sheriffs' Education & Training Standards Comm.	99 DOJ 0531	Reilly	09/14/00	
Emmit O'Neal Thomas v. Sheriffs' Educ. & Training Stds. Commission	99 DOJ 0845	Lassiter	04/06/01	
James Everett Hill v. Sheriffs' Education & Training Standards Comm.	99 DOJ 1479	Reilly	04/10/00	
Leonard Karle Mapp v. NC Criminal Justice Educ & Trng Stds Comm	99 DOJ 1555	Gray	01/16/01	
Juan Montez Jones v. N.C. Criminal Justice Education & Training Standards Commission	99 DOJ 1716	Conner	07/05/00	
Larry G. McClain v. Sherriffs' Education & Training Standards Comm.	99 DOJ 1721	Morrison	06/28/00	
Ersal Overton, III v. Sherriffs' Education & Training Standards Comm.	99 DOJ 0791	Mann	08/23/00	15:08 NCR 883
Keith Allen Murchison v. Sheriffs' Education & Training Stds Comm.	00 DOJ 0006	Lassiter	06/26/00	
Margaret A. Singleton v. Sheriffs' Education & Training Stds. Comm.	00 DOJ 0056	Gray	03/01/00	
William H. Norton, III v. NC Sheriffs' Educ. & Training Stds. Comm.	00 DOJ 0563	Gray	09/19/00	
Larry Kevin Dean v. NC Criminal Justice Education & Training Standards Commission	00 DOJ 0610	Wade	02/06/01	
Pierre Deberry Debnam v. NC Criminal Justice Education and Training Standards Commission	00 DOJ 0719	Morrison	08/15/00	
Herbert Wilson Stubbs v. NC Criminal Justice Ed. & Training Stds. Comm.	00 DOJ 0907	Lassiter	11/02/00	
Andrew Newsom v. Sheriffs' Education & Training Standards Comm.	00 DOJ 0909	Conner	03/05/01	
Gary J Watts v. Sheriffs' Education & Training Standards Commission	00 DOJ 0910	Lassiter	03/02/01	
Charles L. Garner, Jr. v. NC Criminal Justice Ed. & Training Stds. Comm.	00 DOJ 0993	Morrison	01/05/01	
James Edward Ellerbe v. Sheriffs' Education & Training Stds. Comm.	00 DOJ 0948	Lassiter	07/31/00	
Christopher L. Dammons v. Sheriffs' Education & Training Stds. Comm.	00 DOJ 1071	Mann	04/11/01	
Dexter Dwayne Boyd v. Criminal Justice Education & Training Standards Commission	00 DOJ 1366	Lassiter	05/26/00	
William J. Sciacca v. Sheriffs' Education & Training Stds. Comm	00 DOJ 1555	Mann	01/17/01	
Rosamel T. Gresham v. Sherriffs' Education & Training Standards Comm.	00 DOJ 1557	Lassiter	12/20/00	

Private Protective Services Board

Leisa M Roberts v. Private Protective Services Board	99 DOJ 0112	Conner	02/14/01	
Charles A. Joyce and Carolina Security Patrol, Inc. v. Private Protective Services Board	00 DOJ 0004	Conner	08/14/00	
George Thomas Bond v. Private Protective Services	00 DOJ 0014	Conner	05/11/00	
Robert V. Croom and Robert V. Wooster v. Private Protective Services Board	00 DOJ 0058	Morrison	05/16/00	
Sharon Blackstock v. Private Protective Services Board	00 DOJ 0059	Morrison	05/16/00	
Samuel G. Slater v. Private Protective Services Board	00 DOJ 0090	Morrison	05/12/00	
Keith Lewis v. Private Protective Services Board	00 DOJ 0113	Connor	06/07/00	
Tammy Goforth Nichols v Private Protective Services Board	00 DOJ 2051	Gray	02/09/01	
John W. Fromm v. Private Protective Services Board	00 DOJ 0570	Conner	06/07/00	
Jason Stewart Duckett v. Private Protective Services Board	00 DOJ 0572	Gray	06/07/00	
Shannon Ray Nance v. Private Protective Services Board	00 DOJ 0609	Gray	06/07/00	
Franklin Delano Gann, Jr. v. Private Protective Services Board	00 DOJ 0670	Morrison	06/15/00	
William Junior Holmes v. Private Protective Services Board	00 DOJ 0671	Morrison	06/15/00	
Michael Burt v. Private Protective Services Board	00 DOJ 0672	Morrison	06/15/00	
Jason William Kane v. Private Protective Services Board	00 DOJ 0952	Wade	09/08/00	
Anthony Queen Williams v. Private Protective Services Board	00 DOJ 1005	Morrison	09/01/00	
Calvin Earl McRae v. Private Protective Services Board	00 DOJ 0736	Morrison	08/02/00	
Donna Rena Reynolds v. Private Protective Services Board	01 DOJ 0011	Mann	03/27/01	
Richard Asiedu v Private Protective Services Board	01 DOJ 0012	Gray	02/07/01	
Derrick Jaie Wiser v. Private Protective Services Board	01 DOJ 0013	Mann	03/27/01	
David Heath Manning v. Private Protective Services Board	01 DOJ 0127	Mann	03/09/01	

PUBLIC INSTRUCTION

Doris G. Branch v. NC Department of Public Instructions	98 EDC 0368	Gray	10/08/00	15:13 NCR 1233
Stacia R. Parker v. Charlotte-Mecklenburg Board of Education	99 EDC 0389	Gray	08/23/00	
Charlie Lee Richardson v. Department of Public Instruction	99 EDC 0788	Reilly	04/11/00	15:01 NCR 45
Dale Y. Farmer v. Department of Public Instruction	00 EDC 0373	Gray	05/26/00	
Cumberland County Board of Education v. Mr. and Mrs. Wesley Waters for Weston Harold Waters	00 EDC 0465	Wade	08/11/00	
Kings Mountain Board of Education, Larry Allen, Melony Bolin, Ronald Hawkins, Shearra Miller, Stella Putnam, Joanne Cole, Otis Cole, Charlie Smith, Frank Smith, and Angela Smith v. NC State Board of Education and Cleveland County Board of Commissioners	00 EDC 0800	Morrison	06/26/00	15:04 NCR 492
Ray N. Anderson v. NC Department of Public Instruction	00 EDC 1226	Gray	03/16/01	
James William Stockstill v. Orange County Board of Education, Orange County Schools and Randy Bridges	00 EDC 1261	Conner	09/28/00	
Christopher Paul Thompson v. Polk County School System	00 EDC 1291	Conner	12/28/00	

DEPARTMENT OF INSURANCE

CONTESTED CASE DECISIONS

Jacquelyn Hastings v. NC Teachers & State Employees' Comprehensive Major Medical Plan	98 INS 1662	Gray	05/25/00	
Wellpath Select, Inc. v. NC Teachers & State Employees' Comprehensive Major Medical Plan	01 INS 0388	Morrison	05/16/01	15:24 NCR 2043
Board of Trustees of the Firemen's Relief Fund of the City of Charlotte v. NC Department of Insurance	01 INS 0613	Lassiter	05/18/01	
DEPARTMENT OF LABOR				
Secret Spot Surf Shop, Inc. v. NC Department of Labor	00 DOL 1213	Gray	03/26/01	
GTF, Inc. D/b/a Creekside Restaurant & Bar v. NC Dept. of Labor	01 DOL 0226	Morrison	04/06/01	
MISCELLANEOUS				
Nancy York Vorys v. Raleigh Police Department	00 MIS 1436	Gray	10/27/00	
Shane C. Balance v. Watauga County District Attorney and Watauga County Superior Court	00 MIS 1685	Mann	01/31/01	
STATE PERSONNEL				
Denise M. Ashe v. Northampton County Board of Commissioners, Northampton County Board of Social Services, Northampton County Department of Social Services	95 OSP 1011	Gray	08/29/00	
Sheila Harris	96 OSP 0686	Mann	02/12/01	
Michele Smith v. Cumberland Co. Dept. of Social Services	97 OSP 1344	Morgan	07/11/00	
Roosevelt Wilkerson, Jr. v. NC Department of Correction	98 OSP 1198 ⁸	Gray	01/30/01	
Marshe Morgan v. Black Mount Center, NC DHHS	98 OSP 1302	Gray	07/11/00	15:05 NCR 624
Pat Hovis v. Lincoln County Department of Social Services	98 OSP 1348	Conner	11/15/00	
Roosevelt Wilkerson, Jr. v. NC Department of Correction	99 OSP 0084 ⁸	Gray	01/30/01	
Larry Wellman v. Department of Health & Human Services	99 OSP 0484	Reilly	05/11/00	15:01 NCR 47
Betty R. Holman v. Broughton Hospital	99 OSP 0580	Hunter	05/08/00	
Doris A. Archibald v. Dare County Health Department	99 OSP 0622	Gray	08/10/00	
Mack Reid Merrill v. NC Department of Correction	99 OSP 0627	Wade	08/23/00	15:07 NCR 772
Russell J. Suga v. Employment Security Commission of NC	99 OSP 0768	Gray	06/23/00	
Glenn Roger Forrest v. NC Department of Transportation	99 OSP 0853	Lassiter	08/24/00	15:07 NCR 781
Ronald Dennis Long v. Western Carolina University	99 OSP 0870 ⁹	Chess	02/01/01	
Sarah C. Hauser v. Forsyth Co., Department of Public Health	99 OSP 0923	Lassiter	04/20/00	15:01 NCR 5
Larry Mayo v. Employment Security Commission of NC	99 OSP 1023	Wade	06/30/00	
Michael Duane Maxwell v. Dept. of Health & Human Services	99 OSP 1068	Reilly	08/03/00	15:09 NCR 924
Mary Brown-Barbee v. Dept. of Environment & Natural Resources	99 OSP 1087	Morrison	12/11/01	
Joel T. Lewis v. Department of Correction	99 OSP 1116	Reilly	05/31/00	
Christopher D. Lunsford v. NC Dept. of Administration, Motor Fleet	99 OSP 1142	Morrison	08/11/00	
Van Sutton v. Office of Juvenile Justice/Dobbs School	99 OSP 1204	Gray	07/13/00	
Ronald Dennis Long v. Western Carolina University	99 OSP 1347 ⁹	Chess	02/01/01	
Benny Callihan v. Department of Correction	99 OSP 1381	Wade	09/06/00	
Russell J. Suga v. Employment Security Commission of NC	99 OSP 1649	Gray	06/09/00	15:04 NCR 508
Thelma T. Utley v. NC State University	99 OSP 1708	Conner	12/08/00	
Preston D. Stiles v. NC Dept of Health & Human Svcs., Caswell Center	99 OSP 1757	Anderson	08/28/00	
Lawrence E. Cooke v. Craven Correctional Facility, NC Dept of Correction	00 OSP 0013	Conner	07/05/00	
Brenda Parker v. NC Div. of Motor Vehicles	00 OSP 0021	Gray	01/19/01	15:16 NCR 1545
Forrest Travis Coston v. NC Dept of Crime Control & Public Safety, NC State Highway Patrol	00 OSP 0022	Conner	01/24/01	
Fred J. Hargro, Jr. v. NC Dept of Crime Control & Public Safety, NC State Highway Patrol	00 OSP 0029	Morrison	08/08/00	
Robert Boyd Choat v. Department of Correction	00 OSP 0102	Reilly	07/24/00	
Larry Campbell v. Wildlife Resources Commission	00 OSP 0117 ⁵	Reilly	09/28/00	
Larry Campbell v. Wildlife Resources Commission	00 OSP 0118 ⁵	Reilly	09/28/00	
Eldee L Brown Jr v. NC Department of Commerce	00 OSP 0180	Morrison	12/19/00	
Vicky Ruffin-Jenkins v. Sparc Academy	00 OSP 0207	Connor	06/26/00	
Robert L. Swinney v. NC Department of Transportation	00 OSP 0281	Morrison	12/20/00	15:14 NCR 1392
Jesse C. Whitaker v. Facilities Operations (NCSU)	00 OSP 0342	Chess	07/11/00	
Gladys M. Sanders v. NC Department of Correction	00 OSP 0362	Gray	09/27/00	
Ronald Dennis Long v. Western Carolina University	00 OSP 0413 ⁹	Chess	02/01/01	
Lillie B. Whitaker v. Center Point Human Resources, Ronald Morton	00 OSP 0443	Lassiter	07/24/00	
Starr M. Strickland v. Correction Enterprises, NC Dept. of Correction	00 OSP 0460	Chess	10/24/00	
Mary D. Eurquhart v. NC DOT, Division of Motor Vehicles	00 OSP 0470	Wade	03/09/01	
George W. Baysden, Jr. v. NC Department of Corrections	00 OSP 0483	Chess	12/20/00	
Addie M. Williams v. Pender Correctional Inst., Dept. of Correction	00 OSP 0562	Conner	09/12/00	
Paula M Wilson v. NC Department of Correction	00 OSP 0581	Morrison	12/15/00	
Shelby Gorham-Teel v. NC Dept of Corrections, Div. of Prisons	00 OSP 0586	Chess	07/10/00	
Michael Jackson v. University Graphics, NC State University	00 OSP 0621	Lassiter	08/16/00	
Marvin Clark v. NC Department of Correction	00 OSP 0623	Gray	08/03/00	
Pathe S. Vivek v. NC Dept. of Environment & Natural Resources	00 OSP 0631	Smith	01/12/01	
Linda O. Leder v. NC Department of Correction	00 OSP 0632	Conner	09/29/00	
James F. Pridgen, Jr. v. A&T State University, Millicent Hopkins	00 OSP 0652	Mann	07/27/00	
Robert L. Moore v. Pitt County Mental Health Dev Disabilities/SA	00 OSP 0708	Wade	02/05/01	
Warren Carlos Moore v. Pitt County Menatl Health Dev Disabilities/SA	00 OSP 0713	Wade	02/05/01	
Ronald Dennis Long v. Western Carolina University	00 OSP 0745 ⁹	Chess	02/01/01	
Cheryl R Prather v. NC Department of Correction	00 OSP 0756	Chess	03/22/01	
Guy M Murrell v. Neuse Center for Mental Health	00 OSP 0790	Gray	12/12/00	
Mark Esposito v. NCDOT/Aviation, Bill Williams, Director	00 OSP 0791	Lassiter	07/24/00	
Ronald Dennis Long v. Western Carolina University	00 OSP 0821 ⁹	Chess	02/01/01	
Ronald Dennis Long v. Western Carolina University	00 OSP 0822 ⁹	Chess	02/01/01	
Marilyn R. Horton v. Gaston-Lincoln Mental Health	00 OSP 0912	Morrison	10/19/00	

CONTESTED CASE DECISIONS

Maurice Alson v. NC Department of Insurance	00 OSP 0953	Lassiter	04/03/01	
Jeffrey L. Teague v. NC Department of Correction	00 OSP 0978	Chess	10/27/00	
Ronald Dennis Long v. Western Carolina University	00 OSP 1094 ⁹	Chess	02/01/01	
Bernadine Johnson v. Department of Correction	00 OSP 1118	Morrison	11/20/00	
Robert C. Adams v. NC Department of Labor	00 OSP 1185	Conner	11/28/00	
Pamela DeVose v. Durham County DSS	00 OSP 1189	Conner	12/28/00	
Billy Anderson v. NC Department of Correction	00 OSP 1196	Gray	03/08/01	
Steven Allen Slocum v. NC Dept. of Crime Control and Public Safety, Division of State Highway Patrol	00 OSP 1203	Conner	12/28/00	
Robert J. Lane v. Jim Webb, NC Special Care Center (DHR)	00 OSP 1241	Gray	01/23/01	
Pamela R. Smith v. NC Department of Public Instruction	00 OSP 1229	Conner	11/09/00	
Linda Sharp Brady v. Halifax Co. Department of Social Services	00 OSP 1263	Gray	02/23/01	
Wayne M. Wise v. NCCU-WNCU	00 OSP 1269	Gray	01/09/01	
Dora P. Pettiford v. NC Department of Health & Human Services	00 OSP 1279	Lassiter	09/25/00	
David A. Greats v. NC Department of Correction	00 OSP 1282	Conner	11/09/00	
Ronald Dennis "Butch" Long v. Western Carolina University	00 OSP 1307	Chess	02/02/01	
Ronald Dennis "Butch" Long v. Western Carolina University	00 OSP 1325	Chess	04/12/01	
Richard A Patterson v. Currituck Co. EMS, Currituck County, NC 27929	00 OSP 1330	Conner	02/21/01	
Jacqueline G Williams v. Kathlyn Flora, Director of Currituck County	00 OSP 1331	Conner	03/27/01	
Ronald Dennis "Butch" Long v. Western Carolina University	00 OSP 1349	Chess	04/12/01	
Wayne Davis v. Shelby City Schools	00 OSP 1402	Lassiter	12/20/00	
Larry Joel Williams v. Durham Co. Gov't, The Durham Center	00 OSP 1417	Gray	01/24/01	
Michael T. Winbush v. Winston-Salem State University	00 OSP 1429	Overby	04/03/01	15:21 NCR 1847
Treena S. Greene v. NC DOC, Pamlico Correctional Institution	00 OSP 1647	Chess	02/28/01	
Susan Mote Smith v. NC DHHS/Murdoch Center	00 OSP 1662	Mann	02/23/01	
Thomas Michael Chamberlain v. Alamance Community College	00 OSP 1799	Chess	03/22/01	
Danielle Hannon-Fox v. Nash Community College	00 OSP 1872	Mann	03/14/01	
Mary Ann Suprenant v. Randolph County Mental Health	00 OSP 2089	Morrison	02/14/01	
Billy Wayne Lacy v. Sandhills Center for Mental Health DD & SAS	00 OSP 2127	Morrison	02/28/01	
Erthel Hines v. NC Agricultural & Technical State University	00 OSP 2139	Morrison	12/21/00	
Johnny Lee Brown v. Harnett Correctional Institute	00 OSP 0146	Chess	03/06/01	
Donna Pierce v. NC DOC, Div. of Alcoholism & Chemical Dependency Prog.	00 OSP 2205	Gray	04/23/01	
Henry C. Parks v. EEO Title VII Section, Cheryl C. Fellers	01 OSP 0063	Elkins	04/11/01	
Luther Kidd Ray v. NC Department of Correction	01 OSP 0149	Elkins	04/20/01	
Harvey L. Justice Jr v. North Carolina Central University	01 OSP 0287	Lassiter	04/04/01	
James P White v. Mr. Leonard V Covington, Dir., Human Resources, Office of Admission & Enrollment, Fayetteville State Univ.	01 OSP 0465	Morrison	05/23/01	
STATE TREASURER				
Jean C. Burkhart v. NC Dept. of State Treasurer, Retirement Systems Division	99 DST 1475	Mann	05/30/00	15:05 NCR 633
DEPARTMENT OF REVENUE				
Eddie B. Thomas v. NC Department of Revenue	00 REV 0530	Gray	08/24/00	
Samuel W. Hinshaw v. NC Department of Revenue	00 REV 1008	Gray	12/20/00	
SECRETARY OF STATE				
Pamela J. Rollefson v. Secretary of State (Notary Division)	00 SOS 1470	Conner	01/26/01	
UNIVERSITY OF NORTH CAROLINA				
Theresa T. Godfrey v. UNC Hosp. at Chapel Hill, Dept of Pharm. Billing	00 UNC 0763	Lassiter	09/08/00	
Betty S. Matheson v. UNC Hospitals, Patient Accounting Department, OR Services	00 UNC 1020	Gray	10/09/00	
Ande West v. UNC Hospitals	00 UNC 1267	Conner	12/14/00	
Lisa Morelli v. SODCA Representative, UNC Hospitals	00 UNC 1328	Gray	12/28/00	
Felicia Higgins v. UNC Hospitals at Chapel Hill	00 UNC 1486	Mann	02/23/01	
NC BOARD OF ETHICS				
H. Michael Poole, Ph.D v. Perry Newsome, Exec. Dir. NC Board of Ethics	00 EBD 0696	Lassiter	08/25/00	

CONTESTED CASE DECISIONS

4. Furthermore, N.C.G.S. § 150B-22 provides without express limitation that when any dispute between an agency and another person that involves the person's rights, duties, or privileges is not resolved through informal procedures "either the agency or the person may commence an administrative proceeding to determine the person's rights, duties, or privileges, at which time the dispute becomes a 'contested case'." The Senior ALJ has considered the additional authority submitted by Respondent and finds that he is not bound by legislation in process, regardless of its potential applicability should it ever become the law of this State.

5. Finally, the Senior ALJ has considered the North Carolina Supreme Court's opinion in Vass v. Board of Trustees of Teachers' and State Employees' Comprehensive Major Medical Plan, 324 N.C. 402, 379 S.E.2d 26 (1989), which is one of the very few opinions governing this contested case. Vass supports the proposition that contract disputes, however styled, between a State agency and a person are subject to the North Carolina Administrative Procedure Act.

6. Insofar as any of Respondent's motions are based on the doctrine of sovereign immunity, it is noted that Respondent has argued that it has no sovereign immunity in contract disputes, stating that "the State waives its sovereign immunity and occupies the same position as any other litigant in contract disputes with private parties." In light of these assertions and the lack of any contrary evidence or argument at the hearing, the Motion to Dismiss based on sovereign immunity is denied.

DECISION

The Senior ALJ makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. A contested case exists between the North Carolina Teachers' and State Employees' Comprehensive Major Medical Plan (the "Plan") and WellPath Select, Inc. ("WellPath"). The Plan and WellPath are parties to a contract dated June 21, 2000 (the validity of which is addressed below), under which WellPath offers health insurance coverage to State employees and retirees in 22 North Carolina counties. The contract incorporates a Request for Proposals ("RFP") and a Year 2000 Addendum to the RFP, both of which were prepared by the Plan.

2. The parties' obligations are outlined in the contract, the RFP, and the Year 2000 Addendum. WellPath is obligated under a consent agreement with the Department of Insurance.

3. Nothing in the contract, the RFP, or the Year 2000 Addendum expressly requires that the service area offered by WellPath remain constant over the life of the contract. The RFP as revised by the Year 2000 Addendum specifically provides:

The service area should be defined by county. The HMO must offer a service area that includes every county where the HMO has at least four primary care physicians accepting new patients and where it has at least 1000 HMO non-State members enrolled at January 1, 2000. Eligible persons may enroll if they live or work in the service area.

4. WellPath did not have, as of January 1, 2000, 1000 non-State members in the 13 counties from which it proposed to withdraw its services.

5. Therefore, even though it did, WellPath was not obligated to offer a service area that included counties in which it had fewer than 1000 non-State members as of January 1, 2000.

6. The contract contemplates that the service area offered by WellPath might be reduced during the course of the contract.

7. The Performance Guarantee -- which was drafted by the Plan -- provides:

A determination of default under the Contract with respect to the Performance Guarantee shall be limited to circumstances such as a substantial reduction in [HMO's] service area or the failure to provide a benefit it is obligated to provide under the contract to all members. . . . If the Plan believes that [HMO] is in default or has failed to perform under the Contract, the Plan shall provide to [HMO] written notification of default or failure to perform. [HMO] shall have fifteen (15) business days from the date of the receipt of such notice from the Plan to cure the alleged default or failure to perform. If [HMO] fails to cure the default or perform the obligation, or fails to reach an agreement with the Plan regarding the alleged default or failure to perform, within fifteen (15) days of receipt of the written notice, the Plan shall have access to the Performance Guarantee.

8. A substantial reduction in service area constitutes a default with respect to the Performance Guarantee, which would give the Plan access to the \$500,000.00. WellPath acknowledges and it is found that a reduction in service area by 13 of 22 counties is a “substantial reduction” in service area.
9. On February 12, 2001, WellPath tendered a Performance Guarantee, which was rejected by the Plan in a letter dated February 13, 2001, because it did not meet the requirements given in the 1998 RFP and the Year 2000 Addendum.
10. On at least three occasions, including Jack Walker’s letter of February 13, 2001, and Christine Ryan’s two letters of February 20, 2001, the Plan put WellPath on notice that it had not provided the Performance Guarantee. As of that time, and as of the date of the hearing, WellPath had failed to provide the required Performance Guarantee acceptable to the Plan, but has promised to do so upon a substantial reduction in its service area.
11. The 1998 RFP provides: “Failure to provide the performance guarantee by the specified date [15 days after notice that it has not been posted] will render the HMO’s contract void.”
12. After the re-enrollment on October 1, 2000, it became clear to WellPath that the financial consequences of the re-enrollment would be potentially disastrous in a way WellPath did not anticipate. Although Anna Lore, the former CEO of WellPath, testified that WellPath expected some losses, she testified that during her tenure it was not possible to determine the scope of the losses suffered by WellPath as a result of the re-enrollment. Tracy Baker testified that the losses were much more massive than WellPath anticipated.
13. WellPath began negotiating with the Plan regarding possible ways to address the situation. These discussions concerned abatement or reduction of the “risk fees” charged by the Plan, reductions in WellPath’s service area, and other possible solutions. The Plan refused to reduce the risk fees or agree to a reduction in service area contending that the rate adjustments and service area were covered by the contract, RFP and Addendum. Also, the premium rate adjustment was a component of WellPath’s approved rates for the year.
14. On January 18, 2001, having received no offer to reach a mutual agreement from the Plan, WellPath wrote to the Plan and announced its intention to withdraw from 13 counties in its existing service area.
15. The Plan responded by letter dated January 22, 2001, that WellPath was not entitled to any reduction in service area, whether substantial or insubstantial.
16. WellPath renewed its statement of intention and on January 29, 2001, informed the Plan that it would send letters to affected members on February 1, 2001.
17. On January 31, 2001, the Plan’s counsel called WellPath’s counsel and announced that the Plan would be seeking a temporary restraining order in Wake County Superior Court the following day. WellPath agreed to forgo sending the letters in order to give the Court the opportunity to rule on the motion.
18. The Plan filed its Complaint and Motion for Temporary Restraining Order in Wake County Superior Court on February 1, 2001.
19. The Plan sought a temporary restraining order and preliminary injunction prohibiting WellPath from reducing its service area by 13 counties. Due to time constraints, Judge Donald W. Stephens was unable to hear the parties until the coming Friday. WellPath voluntarily agreed not to send out notices of withdrawal to affected members until the matter was heard.
20. On February 2, 2001, Judge Stephens heard arguments from counsel. He declined to rule, strongly encouraged the parties to attempt to resolve the dispute, and rescheduled the hearing for the following Friday. Again, WellPath voluntarily agreed to refrain from taking any action to reduce its service area.
21. The Plan suggested mediation as an avenue for reaching a settlement. WellPath agreed. The Plan arranged for the mediator, and the parties and counsel met on Wednesday, February 7, 2001, at Womble Carlyle’s offices. Over the course of the six-hour mediation, WellPath conveyed four separate proposals to the Plan.
22. The Plan presented evidence that it offered a settlement concept at the mediation, which would allow WellPath to withdraw from its entire service area on June 30, 2001, upon payment to the Plan of the \$500,000.00 Performance Guarantee. Dr. Walker thought this was the most convenient time for employees because it coincided with a new deductible year of the Plan. WellPath presented evidence that it was not aware that the Plan had conveyed any proposal during the mediation, thus it did not accept such an offer. Also, WellPath did not propose during the mediation that it be allowed to withdraw from its entire service area upon payment of \$500,000.00, but it did so at the hearing on May 1st. The parties did not settle their dispute during the mediation conference.

CONTESTED CASE DECISIONS

23. Contrary to WellPath's expectation, the Plan did not contact WellPath following the mediation to respond further to the four settlement proposals made by WellPath.
24. On February 9, 2001, the morning of the rescheduled hearing, counsel for WellPath wrote to the Plan's counsel to reiterate all four proposals and to point out that the Plan had made no proposals at the mediation. The Plan did not respond.
25. The parties appeared again before Judge Stephens on February 9, 2001. At the hearing, WellPath's counsel pointed out WellPath's understanding that the Plan had called for a mediation and made no offers whatsoever to attempt to settle the dispute. WellPath contended at the hearing that the Plan's call for the mediation had been a mere sham, an attempt to show a façade of reasonableness with no genuine intention of resolving the dispute as Judge Stephens had encouraged. The Plan admitted that it did not contradict that position at the hearing based upon a perception that WellPath was posturing.
26. Judge Stephens dismissed the Plan's action for lack of subject matter jurisdiction.
27. On February 14, 2001, counsel for the Plan wrote to WellPath's counsel regarding the mediation conference. The letter repeated several times that an offer for WellPath to exit all 22 counties in its service area effective July 1, 2001, had been made at mediation. This letter was intended to clear up any doubt as to whether the Plan had conveyed a proposal during mediation.
28. On February 16, 2001, WellPath's counsel wrote to the Plan's counsel seeking clarification regarding the offer made by the Plan during the mediation. WellPath's stated purpose was to continue negotiations. The Plan's counsel responded that the offer did not survive the mediated settlement conference and that there would be no further possibility of settlement until an acceptable performance guarantee bond was filed with the Plan.
29. Several years ago, 12 HMOs submitted proposals to the Plan. Only 3, including WellPath, did for the 2000-2001 year. No HMO has bid in response to the current RFP, so teachers and State employees may not have a choice this fall for the 2001-2002 year—rather all currently with WellPath would go under the Plan. Moving WellPath's members to the Plan effective July 1, 2001, would provide them 12 months to meet their deductibles and co-insurance, instead of having only 9 months from October 1, 2001, to meet them before they would have to begin meeting them again on July 1, 2002, pursuant to the Plan's requirements.
30. WellPath has agreed with the North Carolina Department of Insurance that it will give all affected members at least 30 days notice before reducing its service area.

CONCLUSIONS OF LAW

1. Informal procedures have been attempted unsuccessfully since the inception of this dispute in the fall of 2000. The parties have not settled their dispute.
2. The twelve-month contract between the Plan and WellPath is void. The provision in the RFP that provides that the contract is void in the event the Performance Guarantee is not provided within fifteen (15) days after notice is clear and unambiguous. Even if the undersigned determined that the words require construction, they are construed against the Plan as drafter. NovaCare Orthotics & Prosthetics East, Inc. v. Speelman, 137 N.C.App. 471, 528 S.E.2d 918 (2000) (“when an ambiguity is present in a written instrument, the court is to construe the ambiguity against the drafter--the party responsible for choosing the questionable language”).
3. The Plan offered no evidence to explain the reason behind the provision, despite the fact that the Plan introduced the RFP containing it into evidence.
4. The legal effect of the language is clear: the twelve-month contract between WellPath and the Plan is void. The distinction between “void” and merely “voidable” is critical: although a voidable contract may be subject to ratification by performance or otherwise, “a void contract is invalid from its inception and cannot be ratified.” Alphonse v. Northern Telecom, Inc., 776 F. Supp. 1075, 1078-79 (E.D.N.C. 1991) (citing North Carolina cases). This is also the law across the country:

There is an important distinction between “void” and “voidable” contracts, and confusion has resulted from the fact that it is voidable. A void contract is no contract at all; it binds no one and is a mere nullity. Accordingly, an action cannot be maintained for damages for its breach. No disaffirmance is required to avoid it, and it cannot be validated by ratification; life cannot be breathed into it on the ground of expediency or because its completion would render a useful purpose in accomplishing desired ends. A contract wholly void is void as to everybody whose rights would be affected by it if valid. Where one of two mutually dependent provisions of a contract is void, the parties are not bound by the other provision.

17A Am.Jur.2d Contracts § 7, at 31. In short, a contract that is void has no effect whatsoever.

CONTESTED CASE DECISIONS

5. While the twelve-month contract is void as a matter of law, I conclude that the parties have been operating pursuant to a month to month contract since the Plan's February 13, 2001, rejection of WellPath's proposed Performance Guarantee. The Plan has not sought to terminate WellPath's provision of services to its subscribers, while WellPath has continued to accept monthly premiums, provide services, and promised to submit the Performance Guarantee. Notice of at least thirty days would be sufficient to terminate their relationship as of July 1, 2001.

Based upon the foregoing Findings of Fact and Conclusions of Law, **IT IS HEREBY DECIDED** that WellPath is entitled to withdraw from its service area as of July 1, 2001, upon prior provision of the \$500,000.00 Performance Guarantee to the Plan, providing it gives at least 30 days written notice to its subscribers with an explanation that such date coincides with a new deductible year under the State Health Plan and that any enrollee registered as a bed patient in an acute hospital on June 30, 2001, shall continue to receive full benefits for as long as the hospitalization remains medically necessary for the condition under treatment.

ORDER

It is hereby ordered that the agency serve a copy of the final decision on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6714, in accordance with North Carolina General Statute 150B-36(b).

NOTICE

The agency making the final decision in this contested case is required to give each party an opportunity to file exceptions to this decision and to present written arguments to those in the agency who will make the final decision. G.S. 150B-36(a).

The agency is required by G.S. 150B-36(b) to serve a copy of the final decision on all parties and to furnish a copy to the parties' attorney of record and to the Office of Administrative Hearings. The agency that will make the final decision in this contested case is the Board of Trustees of the N.C. Teachers' and State Employees' Comprehensive Major Medical Plan.

This the 16th day of May, 2001.

Fred G. Morrison Jr.
Senior Administrative Law Judge