



Fiscal Note Review of Proposed Wildlife Resources Commission No-Wake Zone Rules

Rule Amendments: 15A NCAC 10F .0307 Catawba, Iredell, Lincoln, and Mecklenburg counties
15A NCAC 10F .0342 Catawba County
15A NCAC 10F .0353 Mountain Island Lake Marine Commission
15A NCAC 10F .0360 Graham County
15A NCAC 10F .0366 Macon County
15A NCAC 10F .0373 Transylvania County
15A NCAC 10F .0375 Duke Energy Corporation Hydroelectric Station Safety Zones

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Impact: State Government: Yes
Local Government: Yes
Private: No
Substantial Impact: No

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

All 10F Rules were reviewed as part of the 2016 Periodic Review process. Five of the 7 rules proposed for amendment at this time are not required to be readopted. 15A NCAC 10F .0366 Macon County and 15A NCAC 10F .0353 Mountain Island Lake – Mecklenburg, Gaston, and Lincoln Counties are required to be readopted, as they were determined to be “necessary with substantive public interest.” All rules are being updated to incorporate the following changes:

- updating language and terms for consistency;
- clarifying no-wake zone boundaries;
- removing the maintenance of markers; and
- including appropriate federal approval for placement of markers.

Proposed rules can be found in the Appendix.

State Impact Analysis: The proposed amendments to these rules are anticipated to have a minimal economic impact on the state.

The only proposed amendment that will have a fiscal impact is the deletion of maintenance for markers. This amendment applies to four Rules: 15A NCAC 10F .0342, .0353, .0360, and .0366.

The agency will assume responsibility for marker replacement. In general, replacement is only required when a marker is missing or has been damaged, as these markers typically last 5 – 10 years. Thus, the agency expects only minimal fiscal impacts due to the proposed amendments to these 4 rules. Based on approximate costs for materials and labor, it is estimated that the agency could incur an annual cost of approximately \$5,900 annually to replace missing or damaged markers statewide $((\$150/\text{marker} + \$150 \text{ materials}/\text{marker}) \times 10 \text{ markers}/\text{year}) = \$3,000/\text{year} + ((\$29/\text{hr} \times 2 \text{ techs} = \$58/\text{hr}) \times (5 \text{ hrs}/\text{marker} \times 10 \text{ markers}/\text{year} = 50 \text{ hrs}/\text{yr}) = \$2,900/\text{year}) = \$5,900/\text{year}$.¹

Local Impact Analysis: The proposed amendments to these rules will not impose any costs on local governments. Due to the Commission assuming responsibility for marker replacement, local governments may incur benefits of approximately \$590 annually $((\$150/\text{marker} + \$150 \text{ materials}/\text{marker}) + (\$58/\text{hr} \times 5 \text{ hours}) = \$590)$ in materials savings and staff time not spent on replacement of individual markers.²

Private Impact: The proposed amendments to these rules have no anticipated private impact. However, a potential benefit of clarifying no-wake zone boundaries is increased boater safety.

Substantial Economic Impact

There will be no substantial economic impact.

¹ Hourly rates for agency staff reflect total compensation for boating technician II.

² Estimates based on Commission staff and materials costs.

APPENDIX

15A NCAC 10F .0307 is proposed for amendment as follows:

15A NCAC 10F .0307 ~~CATAWBA, IREDELL, LINCOLN~~ CATAWBA, IREDELL, LINCOLN, AND MECKLENBURG COUNTIES

(a) Regulated Area. This Rule applies to the waters of Lake Norman ~~which is located in the counties of Catawba, Iredell, Lincoln and Mecklenburg.~~ Mecklenburg counties;

- (1) within 50 yards of the shoreline at Jetton Park in Mecklenburg County, from a point on the west side of the park at 35.47082 N, 80.90427 W, south and around the point at 35.46703 N, 80.90360 W, then northeast to a point at 35.47262 N, 80.89727 W;
- (2) within 50 yards of ~~Brown's Cove~~ the end of the docks at Blythe Landing Park, west of N.C. Highway 73 in Huntersville;
- (3) the waters of Bluff Point Cove in Cornelius shore to shore, east of a line from a point 50 yards west of the south shore of the cove mouth at 35.45327 N, 80.89520 W to a point 50 yards west of the north shore of the cove mouth at 35.45487 N, 80.89440 W; and
- (4) the waters of the Hager Creek cove in Iredell County, east of a line at the cove mouth from a point on the south shore at 35.55117 N, 80.95250 W to a point on the north shore of the cove mouth at 35.56162 N, 80.95230 W.

~~(b) Speed Limit Near Shore Facilities. No person shall operate a vessel at greater than no wake speed within 50 yards of any marked boat launching area, bridge, dock, pier, marina, boat storage structure, or boat service area on the waters of Lake Norman.~~

~~(b) No person shall operate a vessel at greater than no wake speed within the regulated areas described in Paragraph (a) of this Rule.~~

~~(c) Speed Limit Near Parks: No person shall operate a vessel greater than no wake speed within 50 yards of the following parks as designated by markers:~~

- ~~(1) — Jetton Park;~~
- ~~(2) — Brown's Cove Park.~~

~~(d) Specific Speed Zones: No person shall operate a vessel at greater than no wake speed in the following designated waters:~~

- ~~(1) — the entire area of Bluff Point Cove;~~
- ~~(2) — that cove immediately north of the inlet of Hager Creek.~~

~~(e)(c) Restricted Swimming Areas. No person operating or responsible for the operation of a vessel shall permit it to enter any marked swimming area on the waters of Lake Norman.~~

~~(f) (d) Placement and Maintenance of Markers. Each of the boards of commissioners of the above named counties The Lake Norman Marine Commission or a county in that Commission is the designated a suitable agency for placement and maintenance of navigational aids and regulatory markers of a general nature on the waters of Lake Norman Norman, within the boundaries of each respective county. Provided the said counties exercise their~~

~~supervisory responsibility, they may delegate the actual process of placement or maintenance of such markers to some other agency, corporation, group, or individual.~~

~~With regard to marking the restricted zones described above, markers may be placed and maintained by the individuals using the protected areas and facilities in accordance with the Uniform Waterway Marking System and supplementary standards as set forth in Rule .0301(g)(1) to (8) of this Section.~~

~~(g)(e) Markers Reflecting County Regulation. Where any Any marker conforming or required to conform to the uniform system Uniform System that is placed in or near Lake Norman advising the public of the provisions of any a regulation by local act or of county ordinances ordinance made under the authority of any local act and: that is not within the enforcement jurisdiction of the Commission shall bear the legend "County Regulation" to indicate the regulation is not enforceable by the Commission.~~

~~(1) — Such provisions are not within the enforcement jurisdiction of the Commission; and~~

~~(2) — The Commission has not passed regulations of an identical or closely similar nature to that of the provisions in question, such marker to be deemed in conformity with the uniform system must bear on it the legend "County Regulation" at such a place or at such places as needed to indicate which provisions are not enforceable by the Commission as a matter of state law.~~

~~(h) (f) Miscellaneous Restrictions. In addition to the acts prohibited by Paragraph (f) of Rule .0301 of this Section, it is shall be unlawful to commit any such act with respect to any marker placed or erected under the authority of Chapter 1205 of the 1965 Session Laws of the State of North Carolina by any one of the above named counties or by them jointly. the Lake Norman Marine Commission or one of the counties in that Commission.~~

History Note: Authority G.S. 75A-3; 75A-15; S.L. 1965, c. 1205; S.L. 1969, c.1089;

Eff. February 1, 1976;

Amended Eff. July 1, 1998; October 1, 1992; May 1, 1989; March 25, 1978;

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

15A NCAC 10F .0342 is proposed for amendment as follows:

15A NCAC 10F .0342 CATAWBA COUNTY

(a) Regulated Areas. This Rule applies to the following waters of Lake Hickory:

- ~~(1) the public fishing pier located at the old Wildlife Club off 12th Street Drive, NW, City of Hickory;~~
- ~~(2) the shores of the Dixie Boat Club, Inc.;~~
- ~~(3) (1) that the area within 50 yards of the Moore's Ferry Boat Marina and Boathouse in the City of Hickory on 44th Avenue, Circle NW; at 44th Avenue Circle, NW; and~~
- ~~(4) (2) the cove entering the Lake Hickory RV Resort Marina as delineated by appropriate markers. Resort boating access area, south of a line from a point on the east shore at 35.80767 N, 81.22795 W, to a point on the west shore at 35.80818 N, 81.22899 W, and the waters of the cove west and south of the Lake Hickory RV Resort shore to shore, south-southeast of a line from a point on the west shore of the cove mouth at 35.80675 N, 81.23275 W to a point on the east shore of the cove mouth at 35.80722 N, 81.23145 W.~~

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed in the waters of the regulated areas specified in Paragraph (a) of this Rule.

(c) Placement ~~and Maintenance~~ of Markers. The governing board of the City of Hickory and the Catawba County Board of Commissioners are the designated ~~suitable~~ agencies for placement ~~and maintenance~~ of the markers implementing this Rule, subject to the approval of ~~the United States Coast Guard and~~ the United States Army Corps of Engineers.

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. September 1, 1982;
Amended Eff. March 1, 1992; May 1, 1989;
Temporary Amendment Eff. February 1, 1999;
Amended Eff. July 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. December 6, 2016.*

15A NCAC 10F .0353 is proposed for reoption with substantive changes as follows:

15A NCAC 10F .0353 MOUNTAIN ISLAND ~~LAKE~~- LAKE - MECKLENBURG, GASTON AND LINCOLN COUNTIES

(a) Regulated Area. This Rule applies to Mountain Island ~~Lake, which is located~~ Lake in Mecklenburg, Gaston and Lincoln ~~counties~~; counties:

- (1) ~~Latta Plantation Park—The~~ the cove lying north of and adjacent to the ~~Historic Latta Plantation Park and adjacent to the Mecklenburg County Park and Duke Power Company properties. Park in Mecklenburg County, southeast of a line from a point on the southwest shore at 35.35772 N, 80.92474 W to a point on the northeast shore at 35.36019 N, 80.91935 W;~~
- (2) ~~Duck Cove—The~~ the waters of Duck Cove as delineated by appropriate markers. Duck Cove is adjacent to Mecklenburg County's in Cowan's Ford Wildlife Refuge and west of the portion of Neck Road that runs through Cowan's Ford Wildlife Refuge. Refuge in Mecklenburg County, beginning at the mouth of the cove at 35.38097 N, 80.97894 W;
- (3) ~~Nance Cove~~ the waters in a portion of the south prong of Nance Cove in Mecklenburg County, south of a line from a point on the west shore at 35.33982 N, 80.95313 W to a point on the east shore at 35.34010 N, 80.95185 W; and the waters of the west prong of Nance Cove between SR 2253, otherwise known as Nance Cove Road, and SR 5510 otherwise known as Haymarket Road, south of a line at the mouth of the cove's west prong from a point on the west shore at 35.34547 N, 80.955677 W to a point on the east shore at 35.34506 , 80.95578 W;
 - (A) ~~—The waters of the southern portion of Nance Cove extending north from the back of the cove, at or near Shuffletown Landing, up the cove toward the main channel of Mountain Island Lake, extending to a point that is roughly even with the boundary line between Lots 166 and 167 in the Overlook subdivision, which lots are just north of the Overlook Swim & Tennis Club, and where the cove is approximately 368 feet wide.~~
 - (B) ~~—The waters of the western arm or sub-cove of Nance Cove, which lies west of Shadow Cove Lane and the northern most portion of Nance Cove Road and east of Haymarket Road.~~
- (4) ~~North Carolina Highway 16 Bridge B— an~~ the area extending approximately within 50 yards in all directions from shore to shore, northeast and southwest of the NC Highway 16 Bridge also known as the Rozelles Ferry Bridge N.C. Highway 16, otherwise known as Brookshire Boulevard bridge in Mecklenburg and Gaston counties;
- (5) ~~the portion of Neck Cove in Mecklenburg County beginning at a point shore to shore, north of a line from a point on the western west shore at 35.367061 N, 80.932632 W 35.36706 N, 80.93263 W to a point on the eastern east shore at 35.367085N, 80.931129 35.36708 N, 80.93113 W; and extending the entire length of the cove.~~
- (6) ~~Gar Creek in Mecklenburg County, east of a line from a point on the north shore at 35.348851 N, 80.927461 W 35.34885 N, 80.92746 W to a point on the south shore at 35.348082 N, 80.927736 W~~

~~35.34804 N, 80.92774 W, and west to of a line from a point on the north shore at 35.348854N, 80.926821W to a point on the south shore at 35.34844 N, 80.925803W. 35.34887 N, 80.92686 W to a point on the south shore at 35.34840 N, 80.92585 W;~~

- (7) ~~Whispering Cove in Mecklenburg County, south of a line beginning at from a point on the western west shore at 35.341223N, 80.975715W~~ 35.34119 N, 80.97570 W to a point on the ~~eastern east~~ east shore at ~~35.340806N, 80.974785W~~ and extending the entire length of the cove. ~~35.34079 N, 80.97477 W;~~ and
- (8) ~~North Carolina Highway 73 Bridge an area extending approximately 50 yards in all directions from the NC Highway 73 Bridge: east of a line from a point on the north shore at 35.428079N, 80.95799W to a point on the south shore at 35.427177N, 80.957424W to a line from a point on the north shore at 35.427845N, 80.955441W to a point on the south shore at 35.427008N, 80.955422W. shore to shore within 50 yards north and south of the N.C. Highway 73 bridge in Mecklenburg and Gaston counties.~~

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

(c) Placement ~~and Maintenance~~ of Markers. The ~~Board~~ Boards of Commissioners ~~for of~~ Mecklenburg County, ~~for~~ of Gaston County and ~~for of~~ Lincoln County are the designated ~~as suitable~~ agencies for placement ~~and maintenance~~ of markers implementing this Rule for regulated areas within their territorial ~~jurisdiction in accordance with the Uniform System.~~ jurisdictions.

History Note: Authority G.S. 75A-3; 75A-15;
Eff. May 1, 1988;
Temporary Amendment Eff. April 1, 2000;
Amended Eff. January 1, 2015; July 1, 2000.

15A NCAC 10F .0360 is proposed for amendment as follows:

15A NCAC 10F .0360 GRAHAM COUNTY

(a) Regulated Area. This Rule applies to the ~~following waters and portions of waters described as follows:~~ waters in Graham County:

- (1) ~~Lake Santeetlah Boat Dock on Lake Santeetlah in Graham County.~~ Santeetlah Marina cove on Santeetlah Lake, shore to shore north of a line from a point on the west shore at 35.36435 N, 83.85841 W to a point on the northeast shore at 35.36532 N, 83.85529 W;
- (2) ~~Entrance of Fontana Boat Dock Fontana Village Resort Marina cove in Fontana Lake in Graham County on Fontana Lake, shore to shore west of a line from a point on the north shore at 35.44294 N, 83.78900 W to a point on the south shore at 35.44077 N, 83.78936 W;~~
- (3) ~~within 50 yards of the Thomas Prince Boat Dock Marina at 237 Prince Boat Dock Road in Almond, and its docks and mooring areas on Fontana Lake in Graham County.~~ Lake;
- (4) ~~within 50 yards of Crisp's Crisp Boat Dock, Dock on Town Branch off Panther Creek on Fontana Lake in Graham County.~~ Lake, near the northern end of SR 1234 otherwise known as Lower Panther Creek Road in Robbinsville; and
- (5) ~~within 50 yards of the Deyton Camp Boat Dock on Santeetlah Lake at 270 Deyton Camp Road off the main channel of the Tallulah prong of Santeetlah Lake.~~ Road otherwise known as SR 1153, in Robbinsville.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within ~~50 yards of~~ the regulated areas as described in Paragraph (a) of this Rule.

(c) Cheoah Point Swimming Area, Lake Santeetlah - No person shall operate a vessel within the Cheoah Point Swimming Area which begins at the head of Cheoah Point ~~Cove and extends to the mouth of the Cove as designated by marker buoys and float lines.~~ Cove. No one shall operate a vessel at greater than no-wake speed east of the mouth of Cheoah Point Cove, beginning at a point at 35.37246 N, 83.87081 W.

(d) Placement ~~and Maintenance~~ of Markers. The Graham County Board of Commissioners is ~~the designated as a suitable designated agency for the placement and maintenance of markers implementing this Rule.~~ Rule, subject to the authority of the Tennessee Valley Authority and the United States Army Corps of Engineers.

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

Eff. May 1, 1989;

Amended Eff. February 1, 1996; February 1, 1994; September 1, 1989;

Temporary Amendment Eff. January 1, 1998;

Amended Eff. May 1, 2004; July 1, 1998;

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

15A NCAC 10F .0366 is proposed for reoption with substantive changes as follows:

15A NCAC 10F .0366 MACON COUNTY

(a) Regulated Area. This Rule applies to the following waters of Nantahala Lake:

- (1) Lakes End Cove west of SR 1310 otherwise known as Wayah Road in Tipton, shore to ~~shore,~~
~~beginning at shore north of~~ a line from a point on the ~~northwest~~ west shore at 35.19602 N, 83.64184
W to a point on the ~~southeast~~ east shore at 35.19544 N, ~~83.64053 W~~, 83.64053 W; and
- (2) ~~That the~~ area within 100 yards ~~from~~ of a point at 35.16570 N, 83.64686 W at ~~from~~ the end of the
Mountain Shadows Community ~~Dock~~, dock, in Tipton.

(b) Speed Limit. No person shall operate a vessel at greater than no-wake speed in the waters of the regulated area specified in Paragraph (a) of this Rule.

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

*History Note: Authority G.S. 75A-3; 75A-15;
Eff. June 1, 1994;
Amended Eff. October 1, 2016; June 1, 2005.*

15A NCAC 10F. 0373 is proposed for amendment as follows:

15A NCAC 10F .0373 TRANSYLVANIA COUNTY

- (a) Regulated Area. ~~This Rule applies to Lake Toxaway.~~ Toxaway in Transylvania County;
- (b) Speed Limit. No person shall operate a vessel at greater than no-wake speed within ~~50 yards of the Lake Toxaway Marina.~~ the Lake Toxaway Country Club Marina cove, south of a line from a point on the west shore at 35.14136 N, 82.95424 W to a point on the east shore at 35.14126 N, 82.95303 W.
- (c) Placement and Maintenance of Markers. ~~The Board of Commissioners of Transylvania County is the designated a suitable agency for placement and maintenance of markers implementing this Rule, subject to the approval of the United States Army Corp of Engineers.~~ Rule.

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

Eff. November 1, 2007;

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

15A NCAC 10F. 0375 is proposed for amendment as follows:

15A NCAC 10F .0375 DUKE ENERGY CORPORATION HYDROELECTRIC STATION SAFETY ZONES

(a) Regulated Area. This Rule applies to the area one hundred feet upstream or downstream from the stations and ~~dams (and dams, and~~ associated structures, abutments and equipment of these stations and ~~dams)~~ dams, listed in Paragraph (f) of this Rule.

(b) Fishing. Except as otherwise provided in this Paragraph or in Paragraph (c) of this Rule, no person may enter the waters within the regulated areas described in Paragraph (a) of this Rule. Persons engaged in fishing within the regulated areas described in Paragraph (a) of this Rule may enter these waters in connection with such fishing activities provided that they shall wear at all times a ~~U.S. Coast Guard~~ United States Coast Guard - approved personal ~~floatation~~ floatation device in serviceable condition and of appropriate size for the wearer.

(c) Boating. Any person in or upon a boat, raft or other floating object that enters the regulated area described in Paragraph (a) of this Rule shall wear at all times a ~~U.S. Coast Guard~~ United States Coast Guard - approved personal ~~floatation~~ floatation device in serviceable condition and of appropriate size for the wearer. No vessel may tie off to any part of the dam structure or the accessory ~~portions thereof~~ portions, nor anchor or otherwise secure a vessel within regulated areas described in Paragraph (a) of this ~~Rule, or to anchor or otherwise secure a vessel in these areas.~~ Rule.

(d) Paragraph (c) of this Rule does not apply to persons who enter with consent of Duke Energy Corporation for the purpose of maintaining, repairing or evaluating facilities of Duke Energy Corporation; law enforcement or emergency personnel; or North Carolina state employees acting in an official capacity.

(e) Placement and Maintenance of Markers. Duke Energy Corporation is the designated ~~as a suitable~~ entity for placement and maintenance of buoys and other signs implementing this Rule.

(f) Duke Energy Corporation hydroelectric stations and dams affected by this Rule:

- (1) Bridgewater Hydroelectric Station (~~Paddy~~ including Paddy Creek Dam, Linville Dam and Catawba Dam) ~~Dam~~ in the Catawba River in Burke and McDowell counties;
- (2) Cowans Ford Hydroelectric Station (~~Cowans Ford Dam~~) including Cowans Ford Dam in the Catawba River in Lincoln and Mecklenburg counties;
- (3) Lookout Hydroelectric Station (~~Lookout Dam~~) including Lookout Dam in the Catawba River in Catawba and Iredell counties;
- (4) Mountain Island Hydroelectric Station (~~Mountain Island Dam~~) including Mountain Island Dam in the Catawba River in Gaston and Mecklenburg counties;
- (5) Oxford Hydroelectric Station (~~Oxford Dam~~) including Oxford Dam in the Catawba River in Alexander and Catawba counties;
- (6) Rhodhiss Hydroelectric Station (~~Rhodhiss Dam~~) including Rhodhiss Dam in the Catawba River in Burke and Caldwell counties; and
- (7) Tuxedo Hydroelectric Station (~~Tuxedo Dam~~) including Tuxedo Dam in the Green River in Henderson County.

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

Eff. January 1, 2008;

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