

SUBCHAPTER 13C - STATE LAKES REGULATIONS

SECTION .0100 - GENERAL PROVISIONS

07 NCAC 13C .0101 AUTHORITY

The rules of this Subchapter apply to the State Lakes at White Lake, Singletary Lake, Bay Tree Lake, Jones Lake, Salters Lake, Lake Waccamaw, and Lake Phelps.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. October 1, 1984; April 4, 1979;
Transferred from 15A NCAC 12C .0101 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

07 NCAC 13C .0102 DEFINITIONS

The following definitions apply to this Chapter:

- (1) State Lake. The term state lake or state lakes, unless specifically limited shall be deemed to include all property up to the mean high water mark, whether covered by water or not, in White Lake, Singletary Lake, Bay Tree Lake, Jones Lake, Salters Lake, Lake Waccamaw, and Lake Phelps;
- (2) Mean High Water Mark. The highest point on the shore of any lake to which water reaches under normal circumstances;
- (3) Regulations. Any regulation duly adopted by the Department of Natural Resources and Community Development, and posted as a state lakes regulation;
- (4) Owner. Any person, firm, association, partnership, municipality, county, or corporation owning, leasing, operating or having the exclusive use of a pier, structure or any property under a lease or otherwise;
- (5) Private. The term private when applied to any permit, shall be deemed to mean that such permit shall be used for the primary enjoyment of the owner's family, personal guests, invitees, tenants or lessees. With private permits, the owner may not collect any charge or fee for the use of any pier, boat, ramp or other structure which is the subject matter of the permit;
- (6) Joint Private. The term joint private when applied to any permit means that the permitted structure is in joint ownership. Adjoining property owners who do not have sufficient land to meet the maximum measurement and limitations may apply for this permit. With joint private permits, the owners may not collect any charges or fees for the use of any pier, boat, ramp or other structure which is the subject matter of the permit. This term shall not be construed within the context of these regulations to mean any single family dwelling;
- (7) Commercial. The term commercial when applied to any permit means that the permitted structure and activity shall be used primarily for gain or profit. This term shall not be construed within the context of these regulations to mean any single family dwelling;
- (8) Permittee. Any person to whom a permit is issued;
- (9) Pier. The entire structure, including walkway, patio, platform, pavilion and boat stall;
- (10) Walkway. The floored area of a pier excluding the patio, platform, pavilion and boat stall, used for egress and ingress on the pier;
- (11) Pavilion. Any roofed structure erected above the floor level of a pier;
- (12) Platform. Any floor area of a pier other than walkways, wherever located;
- (13) Patio. Any floor area of a pier, whether covered or uncovered, which adjoins that shoreline of a land area of the owner's real property, not including walkways;
- (14) Boat Stall. Any structure adjoining or attached to a pier which has the capacity to store one boat;
- (15) Appliances. Any major electrical, gas, heating, or cooling device including, but not being limited to, refrigerators, stoves, heaters, freezers, air conditioners, or any other device or devices designed to be permanently situated or attached; Appliances shall not be construed to include lights or boats hoists;
- (16) Transfer. Any devolution of title to or interest in water front property by deed, will, intestate succession, or otherwise by operation of any instrument or law;

- (17) Boat Ramp. Any permanent or temporary structure which is placed on the floor of a state lake for the purpose of allowing boats to enter or be removed from a state lake; Boat ramp shall not be interpreted to mean boat stall;
- (18) Lake Front Property. Any property adjoining or abutting upon a state lake.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
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07 NCAC 13C .0103 CONSTRUCTION
07 NCAC 13C .0104 TERRITORIAL SCOPE

History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Amended Eff. April 4, 1979;
Repealed Eff. October 1, 1984;
Transferred from 15A NCAC 12C .0103, .0104 Eff. April 1, 2017.

07 NCAC 13C .0105 PERMITS

A permit to do any act shall authorize the same only insofar as it may be performed in strict accordance with the terms and conditions thereof. Any violation by the permittee or employees of any term or condition thereof shall constitute grounds for its revocation by the Department or by its authorized representative as provided for in Regulation .0310 of this Section. In case of such revocation of any permit, all monies paid for or on account thereof shall, at the option of the Department, be forfeited to and be retained by it; and the permittee, together with his agents and employees who violated such terms and conditions, shall be jointly and severally liable to the Department for all damages and loss suffered by it in excess of money so forfeited and retained; but neither such forfeiture and retention by the Department of the whole or any part of such monies nor the recovery or collection thereby of such damages, or both, shall in any manner relieve such person or persons from liability of punishment under the statutes for any violation of any provision of any North Carolina state lakes regulation.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0105 Eff. April 1, 2017.

SECTION .0200 - COMMERCIAL ENTERPRISES

07 NCAC 13C .0201 COMMERCIAL ENTERPRISES

No person, being without a permit shall, in or upon any state lake or within or upon any structure on the floor of any state lake, sell or offer for sale, hire, lease or let out, any object of merchandise, property, privilege, service or any other thing, or engage in any business or erect any building or other structure whatsoever.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0201 Eff. April 1, 2017.

07 NCAC 13C .0202 SCIENTIFIC RESEARCH: EDUCATIONAL: NONCOMMERCIAL ACTIVITIES

No person shall engage in scientific, educational research, or other noncommercial activity in or upon a state lake without a special use permit issued by the Superintendent of State Parks. No such permit may be issued if the activity for which the permit is applied will have any adverse effect on the state lake or upon those who are engaging in any lawful activities thereon.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;

Transferred from 15A NCAC 12C .0202 Eff. April 1, 2017.

07 NCAC 13C .0203 COMMERCIAL ACTIVITIES IN OR UPON STATE LAKES

No person shall engage in any commercial activity in or upon a state lake without a commercial activity permit issued by the Superintendent of State Parks. No such permit may be issued if the activity for which the permit is applied will have any adverse effect on the state lake or upon those who are engaging in any lawful activities thereon.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0203 Eff. April 1, 2017.*

SECTION .0300 - CONSTRUCTION AND USE OF PIERS AND OTHER STRUCTURES ON STATE LAKES

07 NCAC 13C .0301 PERMITS

No pier, boat ramp, seawall, boat stall, pavilion, platform, patio, or other structure shall be built or maintained upon the floor of any state lake without a permit. After February 1, 1974, no pier, boat ramp, seawall, boat stall, pavilion, platform, patio or other structure, which requires a permit to be constructed initially, may be modified or enlarged so as to alter the design of the pier or other structure without first obtaining approval of the Division based upon a Permit Amendment Application Form provided by the Division. Such application shall be in accordance with Regulation .0309 of this Section. Such desired modification or enlargement must conform to the requirements of the regulations now in force. All such structures which were in existence on February 1, 1974, shall apply for a permit under these regulations. If the structure so existing conforms to the specifications governing size and otherwise, application may be made under the terms of Regulation .0311(1) of this Section. If the existing structure is not within the specifications as prescribed in these rules and regulations, application must be made under the terms of Regulation .0311(2) of this Section.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0301 Eff. April 1, 2017.*

07 NCAC 13C .0302 STRUCTURES PROHIBITED ON CERTAIN STATE LAKES

No structures, except those owned by the Department, shall be erected in or floating upon Singletary Lake, Jones Lake, and Salters Lake, nor in or floating upon those portions of any other state lake adjoining any land which is now or may later be owned or controlled by the Department.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0302 Eff. April 1, 2017.*

07 NCAC 13C .0303 PERMISSIBLE STRUCTURAL DIMENSIONS

Permits shall be approved for piers, boat ramps, boat stalls, pavilions, platforms, patios and other structures subject to the following limitations:

- (1) Commercial Piers. Maximum measurements for a commercial pier shall be as follows:
 - (a) walkways, 16 feet wide;
 - (b) length of pier structure, 375 feet;
 - (c) platform, pavilion; 32 feet in width;
 - (d) platform, pavilion; 50 feet in length;
 - (e) patio, 20 feet in length extending from mean high water mark. water mark.
- (2) Private piers shall conform to the maximum requirements:
 - (a) Single family pier:
 - (i) walkways, 8 feet wide;
 - (ii) length of pier structure, 225 feet;
 - (iii) platform, pavilion; 20 feet in width;
 - (iv) platform, pavilion; 32 feet in length;

- (v) patio, 20 feet in length extending from mean high water mark;
- (b) Joint private piers shall be limited to the following maximum measurements:
 - (i) walkways, 16 feet wide;
 - (ii) length of pier structure, 225 feet;
 - (iii) platform, pavilion; 32 feet in width;
 - (iv) platform, pavilion, 50 feet in length;
 - (v) patio, 20 feet in length extending from mean high water mark.
- (3) Public piers shall be subject to the following maximum measurements and limitations:
 - (a) walkway, 16 feet wide;
 - (b) length of pier structure, 225 feet;
 - (c) platform, pavilion; 32 feet in width;
 - (d) platform, pavilion; 50 feet in length;
 - (e) patio, 20 feet in length extending from mean high water mark.
- (4) Boat Ramps. The maximum limitation for the size of a boat ramp will be 25 feet by 25 feet square; boat ramps shall not be subject to location criteria of Regulation .0303(6)(a) of this Section.
- (5) Boat Stalls. There shall be a limit of one boat stall per single family pier. Boat stalls will not be permitted on joint private, public, or commercial piers.
- (6) All permitted structures shall be subject to the following additional provisions:
 - (a) No structure or any portion thereof, except boat ramps, shall be located closer than 15 feet from the property owners' corners in the shoreline. Adjoining property owners who own waterfront property may, by special agreement, waive this provision in unusual or hardship cases, and where no hazard is erected by the waiver, may submit an application for a joint private pier permit.
 - (b) Piers must be located so as to point to a location fixed by the Division.
 - (c) No pier, patio, platform, pavilion or boat stall may be located within 25 feet of another structure.
 - (d) Where an applicant fails to comply with these regulations because of the noncompliance of an adjoining property owner who holds a permit for a structure erected prior to the effective date of these regulations, the applicant shall submit his application for approval to the Division. The Division may approve the application subject to conditions and modifications it imposes in the permit.

*History Note: Authority G.S. 143B-135.16;
 Eff. February 1, 1976;
 Transferred from 15A NCAC 12C .0303 Eff. April 1, 2017.*

07 NCAC 13C .0304 LIMITS ON ELEVATED STRUCTURES

Maximum limits for structures of all types above the floor level of the pier, platform or patio shall be as follows:

- (1) Overall structure height may not exceed 15 feet above the floor level of the pier, with the exception of flag poles, semaphores and light poles which may extend to a height of 20 feet above the first floor level.
- (2) Storage boxes, lofts and compartments may be constructed on any pier so long as no equipment, materials or other property used in the construction of or stored in said storage areas shall be subject to combustion. All such structures must also provide for adequate ventilation. No electrical appliances may be installed within such boxes.

*History Note: Authority G.S. 143B-135.16;
 Eff. February 1, 1976;
 Transferred from 15A NCAC 12C .0304 Eff. April 1, 2017.*

07 NCAC 13C .0305 PERMITS FOR STRUCTURES EXISTING AS OF FEBRUARY 1, 1974

- (a) Owners of structures which presently meet the specifications of these regulations but were built under a valid permit and which were built according to the terms of that permit may legally continue under the old permit. Structures which were built without a permit or which were built under a permit but exceed the terms of the permit must apply for a new permit as in Regulation .0312 of this Section.

(b) Owners of structures which do not meet the specifications of these regulations including structures which were built without a permit or built under a legal permit but no longer meet the specifications of the permit and which structures, because of size or otherwise, are no longer eligible for a permit under these regulations must apply for a nonconforming use permit as described in Regulation .0312(1) of this Section. All such applications should be made to the Secretary of the Department of Natural Resources and Community Development, Box 27687, Raleigh, North Carolina, 27611, on forms provided by the Department. Such a permit when issued shall have the following conditions attached thereto; no alterations, enlargements or other structural modifications are permitted. Repairs to maintain the safety of the structure are allowed; should such structures be destroyed or substantially damaged (greater than 50 percent of replacement cost) from any causes, no replacement under the terms of the nonconforming use permit will be permitted. The owner of such structure may also agree that the Department of Natural Resources and Community Development, at the Department's own expense, may bring the structure into compliance with these rules and regulations and therefore be eligible for an ordinary permit.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. April 4, 1979;
Transferred from 15A NCAC 12C .0305 Eff. April 1, 2017.*

07 NCAC 13C .0306 FEES

The following schedule of fees shall be applicable to all structures beginning August 1, 1991, the payment of which shall be prerequisite to the rights and privileges exercised pursuant to these regulations and any and all permits issued pursuant thereto. Annual fees are due on May 1 of each year:

- (1) Each application for the construction or placement of a new structure or the complete replacement of an existing structure, or the complete replacement of a structure for which a permit has previously been issued but which structure has been destroyed or removed by any means, shall be accompanied by an application fee of sixty dollars (\$60.00) which is only refundable if the application is rejected.
- (2) Applications for modifications or enlargement of an existing structure for which a valid permit is held by the applicant for modification or enlargement thereof shall be accompanied by an application fee of sixty dollars (\$60.00) which shall be refundable only if the application is rejected.
- (3) Application for renewal of a permit which was otherwise valid but which has been revoked for failure to pay the annual pier renewal fee within the time provided within 60 days after the due date thereof shall be accompanied by a renewal application fee of sixty dollars (\$60.00), which shall only be refundable if the application is rejected.
- (4) Transfer Fee. Applications for a transfer of a permit to the new owner of the waterfront property or the new owner of an interest in waterfront property giving rise to the right of a permit under these regulations shall be accompanied by a transfer fee of thirty dollars (\$30.00) which shall not be refundable for any reason. This fee is not subject to being prorated and shall be paid in full without regard to the time of year at which the transfer occurred.
- (5) Application for a nonconforming use permit shall be accompanied by an application fee of one hundred and fifty dollars (\$150.00), which is not refundable for any reason.
- (6) Annual fees:
 - (a) private structures:
 - (i) piers not more than 50 feet in length -- fifteen dollars (\$15.00);
 - (ii) piers more than 50 feet in length but not more than 100 feet in length -- thirty dollars (\$30.00);
 - (iii) piers more than 100 feet in length but not more than 150 feet in length -- forty-five dollars (\$45.00);
 - (iv) piers more than 150 feet in length -- sixty dollars (\$60.00);
 - (v) boat ramps, boat mooring buoy -- fifteen dollars (\$15.00);
 - (b) commercial structures:
 - (i) piers not more than 225 feet in length -- seventy-five dollars (\$75.00);
 - (ii) all piers more than 225 feet in length -- one hundred and fifty dollars (\$150.00);
 - (iii) boat ramps, boat mooring buoys -- seventy-five dollars (\$75.00);
 - (c) public structures -- thirty dollars (\$30.00).

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Temporary Amendment Eff. August 12, 1991 For a Period of 180 Days to Expire on February 8, 1992;
Amended Eff. March 1, 1992; August 1, 1988;
Transferred from 15A NCAC 12C .0306 Eff. April 1, 2017.

07 NCAC 13C .0307 CONDITION OF DOCKS: ETC.

All piers, boat ramps, seawalls, boathouses, pavilion, platform, patio or other structures on a state lake must without expense to the Department be kept by the owner in a good state of repair and in a clean, sanitary, safe and presentable condition. Owners shall comply with all laws, rules and regulations now existing or hereafter adopted by the state and county departments of health. Owners shall also comply with all zoning regulations of the local town, municipality, or county. The provisions of this Regulation shall be subject to the notice and hearing procedures set forth in Regulation .0315 of this Section. At least one inspection of each structure shall be made annually by the Division. Within 60 days of the date of inspection a notice of the results of such inspection shall be sent to the permit holder. This notice shall indicate either that the structure meets with the requirements of these regulations or if it does not shall specify:

- (1) what problems are noted,
- (2) what corrective actions are recommended.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0307 Eff. April 1, 2017.

07 NCAC 13C .0308 OBSERVANCE OF REGULATIONS

History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Repealed Eff. October 1, 1984;
Transferred from 15A NCAC 12C .0308 Eff. April 1, 2017.

07 NCAC 13C .0309 ELIGIBILITY FOR PERMITS

Permits to erect or attach structures except legal mooring buoys to the floor of any state lake, whether or not said structure shall also rise above the surface of the water thereof, shall be available only to the following classes of persons:

- (1) owners of lands adjoining or abutting upon the waters;
- (2) owners of an exclusive right to use lands having lake frontage, which lands are held by them for their exclusive use, held by them, or held by the record title owner of said property for the benefit of the owners of the right to use said lake front property;
- (3) towns, municipalities or county governments at a public beach or at the end of a dedicated street.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0309 Eff. April 1, 2017.

07 NCAC 13C .0310 REVOCATION OF PERMITS

Permits granted pursuant to these regulations may be revoked for one or more of the following reasons:

- (1) failure to pay any fee within 60 days after the due date thereof;
- (2) failure to comply or to make provision to comply with the lawful order of any appropriate state park official concerning corrective measures to a structure deemed necessary by the Department, within 30 days after receipt of a detailed notice setting forth in clear and unambiguous language the corrective measures deemed by the Department to be necessary to bring the structure into compliance with these regulations, which notice shall further contain reference to the regulation or regulations giving rise to the order to take corrective measures, and also giving notice as to his rights under Regulation .0315 of this Section, which notice shall be mailed by the Division to the

- permit holder at both his lake address and his permanent address, if any, by certified mail, return receipt requested, postage prepaid by the Department;
- (3) failure to pay the permit transfer fee set forth in Regulation .0306 of this Section within 60 days after the date of the transfer of title to the waterfront property, or the transfer of the interest in waterfront property, which gives rise to the right to the permit;
 - (4) failure to comply with any rule or regulation herein or with any condition imposed on any permit issued.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0310 Eff. April 1, 2017.*

07 NCAC 13C .0311 APPLICATION FOR STRUCTURAL PERMITS

Applications shall be made to the Division of parks and recreation on standardized forms supplied by the Division, and which shall include the following information: (to be submitted in triplicate):

- (1) for initial permit, or permit for existing structure which meets these regulations:
 - (a) a written description of a structure for which the permit is desired;
 - (b) a drawing, photograph, diagram or other illustration adequately depicting the structure for which the permit is desired, and which drawing, photograph, diagram or other illustration locates the structure relative to the waterfront property which gives rise to the right to apply for the permit sufficient to meet the requirements of Regulation .0303 of this Section;
 - (c) a statement identifying the waterfront lands to which the structure is to be attached, or if the structure is not to be attached to the waterfront property at the water line, the waterfront property which gives rise to the right to apply for the permit. A map or plat of the waterfront property will suffice for this identifying statement; such maps are highly desirable;
 - (d) a statement of applicant's ownership of or property right in the waterfront lands giving rise to the right to apply for the permit;
 - (e) a statement that the applicant has read and understands these regulations and that to the best of his knowledge and belief all of the statements contained in this application are true in accordance with these regulations;
 - (f) a statement of the applicant's full name, and his or her lake and permanent address;
 - (g) such other information as the Division may include in said application which is reasonably related to the administration of these regulations and the furtherance of the purposes of these regulations set forth above;
- (2) applications for amendment of a permit for modification or enlargement for a structure:
 - (a) a written description of the structure for which the amended permit is desired, describing the modification and/or enlargement to be made to the structure;
 - (b) a drawing, photograph, diagram or other illustration adequately depicting the modifications and/or enlargements for which the amended permit is desired, and locating the proposed modifications and/or enlargements with respect to the existing structure and the waterfront property giving rise to the initial permit; which shall be sufficient to conform to the requirements of Regulation .0303 of this Section;
 - (c) a statement setting forth any changes in applicant's ownership or property interest in the waterfront lands giving rise to the initial permit and the application for an amended permit which have occurred since the date of the application for the initial permit, if any;
 - (d) a statement that the applicant has read and understands these regulations as of the date of the filing of the application for an amended permit and that to the best of his knowledge and belief all of the statements contained in this application are true in accordance with these regulations;
 - (e) such other information as the Division may include in said application which is reasonably related to the administration of these regulations and the furtherance of the purposes of these regulations set forth above;
- (3) Applications for transfer of a permit (to be made by transferee):

- (a) a statement of the name or names of the transferee or transferees, together with their permanent home address and their lake address;
- (b) the name and address of transferor of the permit;
- (c) the permit number or other identifying mark of the Division of parks and recreation by which the permit is identified;
- (d) evidence of the conveyance, devise, or other mode of transfer of title to the property giving rise to the right to the permit; for example, but not by way of limitation, a copy of the deed of conveyance, copy of will, or reference to the place of recording in the public registry in the county in which the property is situated where written evidence of the transfer may be found;
- (e) such other information as the Division may include in said application which is reasonably related to the administration of these regulations and the furtherance of the purposes of these regulations set forth above.

History Note: Authority G.S. 143B-135.16;
 Eff. February 1, 1976;
 Transferred from 15A NCAC 12C .0311 Eff. April 1, 2017.

07 NCAC 13C .0312 PERMITS FOR STRUCTURES EXISTING ON FEBRUARY 1, 1974

- (a) For structures meeting the specifications of these rules and regulations; application for structures under these conditions may be made as under Regulation No. .0311(1) of this Section.
- (b) For structures which do not meet the specifications of these rules and regulations; these applications for a nonconforming use permit should be made directly to the Secretary of the Department of Natural Resources and Community Development, Box 27687, Raleigh, North Carolina, 27611, on standardized forms supplied by the Department. The information supplied shall include the following:
 - (1) The date construction was initiated on the structure;
 - (2) List nonconforming specifications;
 - (3) See .0311(1)(a) of this Section;
 - (4) See .0311(1)(b) of this Section;
 - (5) See .0311(1)(c) of this Section;
 - (6) See .0311(1)(d) of this Section;
 - (7) See .0311(1)(e) of this Section;
 - (8) See .0311(1)(f) of this Section;
 - (9) See .0311(1)(g) of this Section.

History Note: Authority G.S. 143B-135.16;
 Eff. February 1, 1976;
 Amended Eff. April 4, 1979;
 Transferred from 15A NCAC 12C .0312 Eff. April 1, 2017.

07 NCAC 13C .0313 LIABILITY

Neither the state nor the Department nor any of its employees shall be held liable in any claims arising from damage to person or property in the use by permittee or by the public of structures on the state lakes.

History Note: Authority G.S. 143B-135.16;
 Eff. February 1, 1976;
 Transferred from 15A NCAC 12C .0313 Eff. April 1, 2017;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

07 NCAC 13C .0314 RIGHT OF ENTRY RESERVED

The Department reserves to itself through its authorized officers the right of entry upon any pier, ramp or other structure held by the permittee to inspect the same at reasonable times for the purpose of seeing that the regulations are being carried out and that the permittee is conducting his operation or his use and occupancy in conformity with these regulations. The permittee, by holding or requesting a pier permit grants to the Department the right to land access to the pier, ramp or other structure for the purpose of inspection of the pier.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0314 Eff. April 1, 2017.*

07 NCAC 13C .0315 NOTICES: RIGHT TO HEARING: HEARING PROCEDURES: APPEAL

(a) Pier permit revocations and denials of applications for structural permits create opportunities for contested case hearings under G.S. 150B-23. Contested case hearings, including petitions for hearings, are governed by G.S. 150B, Article 3, and rules of the Office of Administrative Hearings at 26 NCAC 3.

(b) The power of the Department to give notice of permit revocation or structural permit denial under this Rule is vested in the Chief of Operations of the Division of Parks and Recreation. Before revoking any pier permit under these rules, the Department shall give notice of its intent to revoke to the permit holder. Upon the denial of any application for a structural permit under these rules, the Department shall give notice of its action to the applicant. The notice required by this Paragraph shall be in writing, and shall be served either personally, or by certified mail with return receipt requested, or in the manner provided at G.S. 1A-1, Rule 4 (j1).

(c) The notice required by Paragraph (b) of this Rule shall contain the following:

- (1) facts:
 - (A) in the case of a permit revocation, the facts relied upon by the Department to support its intended revocation; and
 - (B) in the case of a structural permit denial, the facts relied upon as the basis for the denial.
- (2) rules: the rule or rules in 07 NCAC 13 under which the Department acts or intends to act;
- (3) corrective action: a statement of the corrective action, if any action is possible, to bring the permit holder, or applicant's application, into compliance with the rules at Paragraph (c)(2) of this Rule. In the case of a permit revocation for failure to pay a fee required under these rules in the time provided, late payment is not corrective action;
- (4) final date: the date on which the revocation or denial will become final if the permit holder or applicant does not request a hearing as provided in this Rule. The final date shall be no sooner than the 61st day after service of notice on the permit holder or applicant;
- (5) right to a hearing: a statement that the permit holder or applicant has a right to a hearing, if the hearing request is made:
 - (A) in the form prescribed by G.S. 150B-23(a);
 - (B) accompanied by a certificate of service on the Department showing service has been made as follows:

Joseph E. Slate Jr., Registered Agent
Room 1225, 12th Floor, Archdale Building
512 North Salisbury Street
P. O. Box 27687
Raleigh, North Carolina 27611
 - (C) in a timely manner, either by postmarking or hand-delivery no later than the 60th day following service of the Department's notice under Paragraphs (b) and (c) of this Rule, to the following address:

Office of Administrative Hearings
424 North Blount Street
P. O. Drawer 11666
Raleigh, North Carolina 27604
- (6) failure to exhaust remedies: a statement that the failure to request a hearing in the form, manner, and time required by this Rule constitutes a failure to exhaust all administrative remedies made available under this Rule, and that this failure will preclude judicial review under G.S. 150B of any denial or revocation by the Department.

(d) The final agency decision power of the Department under G.S. 150B-36 on a recommended decision or order of an administrative law judge made under G.S. 150B-34 shall be made by the Director of the Division of Parks and Recreation.

(e) The failure of the pier permit holder or a structural pier permit applicant to request a hearing in the form, manner, and time required by Paragraph (c) of this Rule constitutes a failure to exhaust all administrative remedies made available under this Rule. In a case of a failure of a permit holder to request a hearing in the form, manner, and time required by Paragraph (c) of this Rule, the director will enter an order to revoke the permit. No

none who fails to exhaust this administrative remedy is entitled to judicial review of a permit revocation or denial under G.S. 150B.

History Note: Authority G.S. 143B-135.16; 150B-23;
Eff. February 1, 1976;
Amended Eff. October 1, 1988; April 4, 1979;
Transferred from 15A NCAC 12C .0315 Eff. April 1, 2017.

07 NCAC 13C .0316 ENFORCEMENT

History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Repealed Eff. October 1, 1984;
Transferred from 15A NCAC 12C .0316 Eff. April 1, 2017.

SECTION .0400 - MISCELLANEOUS STATE LAKES REGULATIONS

- 07 NCAC 13C .0401 DISPOSAL OF REFUSE: GARBAGE: ETC.**
- 07 NCAC 13C .0402 HUNTING**
- 07 NCAC 13C .0403 FIREARMS**
- 07 NCAC 13C .0404 EXPLOSIVES**
- 07 NCAC 13C .0405 AVIATION**

History Note: Authority G.S. 113-35;
Eff. February 1, 1976;
Repealed Eff. October 1, 1984;
Transferred from 15A NCAC 12C .0401-.0405 Eff. April 1, 2017.

07 NCAC 13C .0406 WATER LEVEL

No person shall in any way damage or alter drainage ditches, drainage gates or any other inlet or outlet from a state lake; nor in any way change the water level of a state lake. Water level for purpose of measuring the depth of water in the lake shall be determined by the Department.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0406 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

07 NCAC 13C .0407 MOORING BUOYS

No stakes, poles or posts shall be driven or placed into the floor of any state lake for any purpose, except to anchor a lawfully placed mooring buoy. Mooring buoys may be placed upon the floor of state lakes for the purpose of mooring boats by permits issued by the Division. Mooring buoys placed upon state lakes shall meet the requirements of the Wildlife Resources Commission State Boating Regulations. No mooring buoy may be placed outside any established safety zone, or 375 feet from shore where there is no established safety zone. Where the permittee is an owner the buoy may be placed at any point within the safety zone. Where the permittee is not an owner, the buoy may not be placed within 25 feet of any structure or within 100 feet of the shore. However, in no case may a mooring buoy be placed within 25 feet of another legally permitted buoy. The Division may authorize the placement of buoys for recreational purposes. The Division is to cooperate, whenever possible, with clubs, groups and other organizations seeking to promote or offer organized recreational activities or shows or tournaments.

History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0407 Eff. April 1, 2017;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.

07 NCAC 13C .0408 STATE PARKS REGULATIONS

In addition to the North Carolina State Lakes regulations, the North Carolina State Park and Recreation Area regulations shall apply to Jones Lake, Phelps Lake, Salters Lake, Singletary Lake and those portions of any other state lakes adjoining any land which is now or may later be owned or controlled by the Department.

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Transferred from 15A NCAC 12C .0408 Eff. April 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 1, 2018.*

07 NCAC 13C .0409 INFORMATION

*History Note: Authority G.S. 143B-135.16;
Eff. February 1, 1976;
Amended Eff. April 4, 1979;
Transferred from 15A NCAC 12C .0409 Eff. April 1, 2017;
Expired Eff. June 1, 2018 pursuant to G.S. 150B-21.3A.*